

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KENNETH CHAPMAN, et al., Case No. 1:16-cv-1114
Plaintiffs, Cleveland, Ohio
vs. MONDAY, JULY 10, 2017
TRISTAR PRODUCTS, INC.,
Defendant. VOLUME 1-B

TRANSCRIPT OF TRIAL BY JURY
HELD BEFORE THE HONORABLE JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

Court Reporter: Donnalee Cotone, RMR, CRR
United States District Court
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Court Reporters 7-189
Cleveland, Ohio 44113
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1 (In Open Court.)

09:10:40 2 THE COURT: I'll ask the jury that's been
09:10:44 3 selected at this time to stand so as to be sworn.

09:10:51 4 (The impaneled jury was sworn.)

09:11:09 5 THE COURT: And I'd ask the jurors to take a
09:11:12 6 seat. I'd ask everybody else to take a seat.

09:11:16 7 Now, members of the jury, now that you have been sworn
09:11:21 8 in, I'm going to give you some preliminary instructions to
09:11:23 9 guide you in your participation in this trial.

09:11:26 10 In this case, it will be your duty to find from the
09:11:29 11 evidence what the facts are. You and you alone will be the
09:11:33 12 judges of the facts. You will then have to apply those
09:11:36 13 facts to the law as I will give it to you. You must follow
09:11:40 14 that law whether you agree with it or disagree with it.

09:11:45 15 Now, nothing that the Court may say or do during the
09:11:48 16 course of the trial is intended to indicate or should be
09:11:51 17 taken by you as indicating what your verdict should be.

09:11:56 18 Now, the evidence from which you will find the facts
09:11:59 19 will consist of the testimony of the witnesses, documents
09:12:03 20 and other things received into the record as exhibits, and
09:12:07 21 any facts that the lawyers agree to, or stipulate to, or
09:12:11 22 that the Court could potentially instruct you to find.

09:12:14 23 Certain things are not evidence and must not be
09:12:19 24 considered. I will give you a list of them now.

09:12:23 25 Statements, arguments, and questions by lawyers are

09:12:26 1 not evidence. Importantly, the questions give context to
09:12:32 2 the answers, but it is the answers that are the evidence.
09:12:36 3 The questions themselves are never evidence in the case.

09:12:40 4 Objections to the questions are also not evidence.
09:12:46 5 Lawyers have an obligation to their clients to make
09:12:49 6 objections when they believe evidence being offered is
09:12:52 7 improper under the rules of evidence. You should not be
09:12:55 8 influenced by the objection or by the Court's ruling on it.

09:13:00 9 If the objection is sustained, ignore the question.
09:13:03 10 If it is overruled, treat the answer just like any other.

09:13:08 11 If you are ever instructed that some item of evidence
09:13:12 12 is received for a limited purpose only, you must follow that
09:13:15 13 instruction.

09:13:16 14 Now, testimony that the Court has excluded or
09:13:20 15 testimony that the Court has instructed you to disregard is
09:13:24 16 also not evidence and must not be considered.

09:13:28 17 And anything you may have seen or heard outside the
09:13:31 18 courtroom is not evidence and must be disregarded. You are
09:13:35 19 to decide this case solely on the evidence presented here in
09:13:40 20 the courtroom.

09:13:41 21 And importantly, I'll instruct you later, but I'll
09:13:46 22 also instruct you now that you're not allowed to do any
09:13:51 23 outside investigation. So no looking things up on the
09:13:54 24 Internet, no Googling things, no things of that nature. No
09:14:01 25 communications at all about the nature of the case or the

09:14:03 1 evidence. No questioning anybody else about what evidence
09:14:08 2 as of or background facts.

09:14:11 3 You need to rely solely upon the evidence that comes
09:14:14 4 to you in this trial. So stay away from any kind of, you
09:14:19 5 know, online investigation or comment about this case.

09:14:23 6 Now, there are two types of evidence: Direct evidence
09:14:29 7 and circumstantial evidence.

09:14:31 8 Direct evidence is direct proof of a fact, such as the
09:14:34 9 testimony of an eyewitness.

09:14:37 10 Circumstantial evidence is proof of facts from which
09:14:40 11 you may infer or conclude that other facts exist. I begin
09:14:46 12 this morning with kind of an example of the difference.

09:14:50 13 If you had a witness that came in and testified that
09:14:54 14 "I saw Tommy eating the cake," that would be direct
09:14:59 15 evidence. If you believe the witness, you could find that
09:15:03 16 Tommy ate the cake.

09:15:05 17 Now, in contrast, you could have a witness that came
09:15:09 18 in and testified that "I baked a cake. I finished putting
09:15:14 19 icing on it. I opened the refrigerator door and put the
09:15:19 20 full cake on the top shelf of the refrigerator. Just then
09:15:26 21 the phone down the hall rang. I walked down to answer the
09:15:30 22 phone. My son, Tommy, was coming the opposite direction
09:15:35 23 into the kitchen. I passed him in the hallway. I was on
09:15:38 24 the phone about a minute or so. I came back in towards the
09:15:44 25 kitchen and I saw Tommy scurrying out the other door, but I

09:15:49 1 could see as he was leaving the room he had icing on his
09:15:53 2 face. I opened the refrigerator door and immediately saw
09:15:58 3 that somebody had taken a big chunk out of the cake I had
09:16:03 4 just put in there."

09:16:05 5 That would all be circumstantial evidence, but someone
09:16:07 6 could reasonably draw an inference that Tommy had opened the
09:16:13 7 refrigerator door and eaten the cake.

09:16:15 8 So there's no inherently -- neither direct evidence
09:16:19 9 nor circumstantial evidence is inherently more trustworthy.
09:16:23 10 Instead, you should consider all the evidence and use your
09:16:28 11 usual sense of, you know, belief in deciding whether to
09:16:33 12 credit or not credit evidence.

09:16:36 13 Now, once again, it will be up to you to decide which
09:16:40 14 witnesses to believe and which witnesses not to believe and
09:16:43 15 which part or all of their testimony you would choose to
09:16:47 16 believe or not believe.

09:16:48 17 Now, in making judgments on credibility or
09:16:54 18 believability, you will use the general rules that you apply
09:16:58 19 in your everyday lives. In general, those include whether
09:17:04 20 the witness was in a position to accurately see what they
09:17:09 21 testify about, whether they accurately recall what they
09:17:12 22 testified to, whether they accurately describe what they
09:17:16 23 testified to, also whether they have some modus or bias that
09:17:24 24 might cause them to slant the testimony or some other reason
09:17:29 25 that in your everyday lives would cause you to discount or

09:17:33 1 support the testimony of a witness.

09:17:34 2 Now, I'll give you some factors you can consider later
09:17:39 3 in the case, but in general, you're not required to believe
09:17:42 4 any witness. You're free to choose all a witness' testimony
09:17:47 5 or none of it or some portion of it. But that's, again,
09:17:51 6 committed to you. And you should use the judgments and
09:17:55 7 tests that you use in your everyday lives in making that
09:17:59 8 decision.

09:18:01 9 This, again, is a civil case. The plaintiff in this
09:18:05 10 case has the burden of proving their case by what is
09:18:08 11 referred to as a preponderance of the evidence. That means
09:18:11 12 that the plaintiff has to produce evidence which, when
09:18:15 13 compared and considered in light of all the facts, leads you
09:18:19 14 to believe that what the plaintiff claims is more likely
09:18:22 15 true than not true.

09:18:26 16 To put it differently, if you were to put the
09:18:29 17 plaintiff and the defendant's evidence on opposite sides of
09:18:33 18 the scale, the plaintiff would have to make the scale tip
09:18:36 19 somewhat to their side. If the plaintiff fails to meet this
09:18:40 20 burden, the verdict must be for the defendant.

09:18:42 21 Now, some of you may have heard on TV or may have even
09:18:48 22 sat on juries where there was a burden of proof described as
09:18:54 23 proof beyond a reasonable doubt. That's a high burden
09:18:56 24 that's used in criminal cases. It doesn't apply in this
09:19:00 25 case.

09:19:05 1 So once again, the burden of proof in this case is by
09:19:13 2 proof beyond a reasonable doubt.

09:19:20 3 MR. COLEMAN: Your Honor, I don't mean to
09:19:23 4 interrupt. I think you said the burden of proof in this
09:19:26 5 case is beyond a reasonable doubt.

09:19:29 6 THE COURT: No, I'm sorry. I meant the burden
09:19:31 7 of proof is not beyond a reasonable doubt.

09:19:37 8 Now, just to summarize. I'll give you more specific
09:19:43 9 instructions at the conclusion of the case, but the disputed
09:19:48 10 issues that you're going to generally decide will include
09:19:52 11 whether or not the cookers that will be described to you had
09:19:57 12 a defect. You will then also decide whether -- if the
09:20:02 13 cookers did have a defect, whether or not that defect
09:20:07 14 breaches an express warranty between the defendant, Tristar,
09:20:15 15 and the purchasers. And you will also make a decision that
09:20:20 16 if the cookers had a defect, whether the cookers breached an
09:20:25 17 implied warranty that was given to consumers.

09:20:32 18 And if you find that it did, you will then make some
09:20:37 19 decision as well as to -- or you will make the decision as
09:20:41 20 well as to whether the defect was sufficient that it made
09:20:45 21 the respective cookers worthless.

09:20:50 22 Now, I'll explain these claims in more detail, but
09:20:53 23 those are going to be the general issues that you'll be
09:20:58 24 deciding.

09:20:59 25 Let me give you some brief introductions about your

09:21:04 1 conduct as jurors. First, I'm going to instruct that until
09:21:10 2 you begin deliberations, keep your mind open. The evidence
09:21:15 3 in the case comes to you sequentially, and you don't have
09:21:19 4 all the evidence until the exhibits are given to you in the
09:21:24 5 jury room and you begin deliberations. So keep your mind
09:21:29 6 open. Don't reach or form or express any conclusions.

09:21:32 7 So you're obviously not allowed to say anything about
09:21:35 8 the case outside the courtroom, but you're also forbidden
09:21:39 9 from saying anything among yourselves during the interim
09:21:43 10 before the case has been submitted to you. I'm sure you can
09:21:48 11 appreciate there's a tendency in human nature that once we
09:21:52 12 have expressed an opinion on something, there's an ownership
09:21:56 13 interest that sometimes would impair somebody from, you
09:22:00 14 know, fairly deciding the issue. So stay away from taking
09:22:05 15 any positions on the evidence.

09:22:09 16 Don't -- you're not to have any conversation with any
09:22:13 17 of the parties, witnesses, or attorneys. They're not to
09:22:16 18 talk to you; you're not to talk to them. You know, don't
09:22:21 19 engage in any conversation, you know, at all with them. You
09:22:28 20 know, no conversations about how the Indians left so many
09:22:33 21 base runners on base last night and let Detroit sneak away
09:22:38 22 with a victory. Nothing of that type. So stay away from
09:22:42 23 them. It's just -- the courtroom -- there's some meeting
09:22:46 24 facilities here and you'll likely be seeing some of the
09:22:50 25 participants in the hallways, but stay away from them.

09:22:55 1 Also, as I indicated before, don't take -- don't do
09:22:58 2 any private investigation. You'll get everything you need
09:23:02 3 to hear in trial.

09:23:03 4 I'm going to let you take notes, and we'll
09:23:08 5 distribute -- well, you've got the pads and pens to help you
09:23:12 6 with that.

09:23:14 7 Never let the taking of notes interfere with your
09:23:17 8 attention to the evidence. The evidence won't be slowed and
09:23:20 9 won't be repeated, so it's important for you to not reach,
09:23:25 10 form or express any conclusions until you begin your
09:23:28 11 deliberations. So don't let taking of notes interfere with
09:23:33 12 your attention to the evidence.

09:23:35 13 Also, the fact that somebody takes notes or may take
09:23:38 14 more extensive notes does not mean that those notes more
09:23:46 15 accurately reflect what the testimony had been. So you're
09:23:49 16 to use your individual judgment and collective wisdom as to
09:23:53 17 what the evidence was in this case.

09:23:55 18 If you have any personal problems during the trial,
09:23:58 19 report them to the deputies. You've already probably met
09:24:04 20 Jessica and Patrick. And Jackson is the person immediately
09:24:09 21 in front of me. So if you have any issues, bring it to
09:24:13 22 their attention.

09:24:14 23 At this point in time, we're going to take a brief
09:24:19 24 recess to allow the parties to get ready for opening
09:24:23 25 statements.

09:24:24 1 So you'll be taken back to the jury room. We'll plan
09:24:29 2 on reconvening in about 10 minutes, but all afford the
09:24:33 3 parties -- I'm not sure if they have any electronic
09:24:36 4 materials they want to use for opening or otherwise.

09:24:39 5 So we'll take an adjournment for about ten minutes.

09:24:45 6 (Recess taken.)

09:38:22 7 THE COURT: The jury can be brought back in.

09:38:25 8 But there was some indication that the parties wanted
09:38:28 9 to go over some evidentiary rulings. Is that correct?

09:38:38 10 MR. LEWIS: Yes, Your Honor.

09:38:39 11 MR. COLEMAN: Yes.

09:38:40 12 THE COURT: Kind of to cut to the quick. My
09:38:42 13 understanding was there was some issue with regard to
09:38:45 14 whether -- how much the plaintiff could get into personal
09:38:51 15 injury damages.

09:38:53 16 And I would say the plaintiff cannot get into those
09:39:00 17 for the reasons in the ruling I gave the other day.

09:39:03 18 So I think you can describe the incident. I think you
09:39:07 19 can -- why don't everybody else sit down.

09:39:10 20 I think you can describe, you know, the nature of the
09:39:14 21 incident, and you can even ask the party or the witness
09:39:20 22 whether, you know, materials scorched them or something of
09:39:26 23 that nature, but I don't want to get into anything
09:39:29 24 particular about the personal injury claims.

09:39:32 25 MR. COLEMAN: And, Your Honor, just so I don't

09:39:34 1 screw up, which I could do: No photos of the burn injuries,
09:39:39 2 is that what you're saying?

09:39:40 3 THE COURT: Right. Right.

09:39:42 4 MR. COLEMAN: I just want to make sure. We'll
09:39:45 5 take them out of our opening statement portion.

09:39:48 6 THE COURT: Okay. There's also a question
09:39:49 7 regarding evidence and arguments in other lawsuits and other
09:39:56 8 Tristar products.

09:39:57 9 Stay away from those generally. But I'd caution the
09:40:01 10 defense counsel, if defense counsel starts getting into
09:40:06 11 offering evidence or argument that there -- you know, that
09:40:12 12 there was di minimis notice of other injuries or other, I
09:40:16 13 think you may open yourself up to giving the plaintiff an
09:40:20 14 opportunity to offer evidence on that. So don't use as some
09:40:27 15 kind of defense the idea that these were, you know,
09:40:31 16 one-of-a-kind incidents.

09:40:34 17 So I'll grant the motion in limine but caution that
09:40:41 18 defense counsel, you get very close to that argument, you're
09:40:44 19 going to open it up.

09:40:45 20 With regard to the consumer product safety council, I
09:40:52 21 am still somewhat unclear. I think the findings of the
09:40:58 22 consumer product safety council are generally admissible if
09:41:02 23 it's a final ruling. It was somewhat unclear to me as to
09:41:05 24 whether the Consumer Product Safety Commission had made
09:41:07 25 final rulings.

09:41:09 1 MR. COLEMAN: I think from my standpoint, and
09:41:11 2 I think John will agree, they have not, Your Honor. I think
09:41:15 3 it's still under investigation.

09:41:17 4 But let me ask this: The complaints that the CPSC
09:41:22 5 had, they're redacted as to who they are and that sort of
09:41:25 6 thing.

09:41:26 7 The complaints that Tristar sent to the CPSC, are
09:41:32 8 those allowed to gotten into or am I to stay away from
09:41:34 9 those.

09:41:34 10 THE COURT: Stay away from the substance of
09:41:37 11 the complaints unless they open it up.

09:41:38 12 MR. COLEMAN: Okay.

09:41:39 13 MR. LEWIS: May I ask a clarification on that,
09:41:41 14 Your Honor?

09:41:42 15 My understanding was that if we limited it to the
09:41:46 16 products at issue here, that the incidents -- and the
09:41:49 17 incidents, right, would be fair game -- but it's the
09:41:53 18 products outside of this series that we were moving in
09:41:57 19 limine to exclude because the number is very small for the
09:42:02 20 overall product line at issue here.

09:42:04 21 THE COURT: I'm not sure what you're saying.
09:42:06 22 Are you asking about nonpressure cookers involved in this
09:42:10 23 case?

09:42:11 24 MR. LEWIS: Pressure -- I'm asking
09:42:15 25 about -- the data that I was intending to utilize was data

09:42:18 1 about incidents with this series of pressure cookers.

09:42:22 2 THE COURT: Well, unless there's a final

09:42:24 3 ruling, I'm not sure how you get into that.

09:42:27 4 MR. LEWIS: I'm sorry. Not on the CPSC, on

09:42:31 5 the incidents themselves, the other incidents.

09:42:33 6 THE COURT: I caution you, you go into that, I

09:42:35 7 think you may open it up and let the plaintiff bring in

09:42:38 8 details about those.

09:42:39 9 MR. LEWIS: About other incidents with these

09:42:42 10 particular series?

09:42:44 11 THE COURT: Right.

09:42:45 12 MR. LEWIS: And with details, like pictures

09:42:47 13 and things like that?

09:42:49 14 THE COURT: Maybe. So I don't think you can

09:42:50 15 fairly defend by saying no other incidents have occurred or

09:42:55 16 the other incidents are of a minimal nature and not give the

09:43:03 17 plaintiff an opportunity to respond to that.

09:43:10 18 MR. COLEMAN: All right. Your Honor, I'll

09:43:12 19 take that there will be no reference to that in my opening.

09:43:15 20 THE COURT: Okay. You know, normally, the

09:43:21 21 plaintiff's attorney wears a different color suit than the

09:43:24 22 defense attorney.

09:43:25 23 MR. LEWIS: Yeah. Switch, right? That's how

09:43:27 24 you tell us apart.

09:43:28 25 MR. COLEMAN: Your Honor, Mr. Edwards and I

09:43:30 1 both were on that side of the V for about 15 years, so I
09:43:34 2 guess I had to stop it.

09:43:35 3 THE COURT: Okay. You want to get the jury?

09:43:39 4 MR. COLEMAN: Can I stand here to address the
09:43:42 5 jury?

09:43:43 6 THE COURT: That's fine.

09:43:44 7 How long do you expect?

09:43:46 8 MR. COLEMAN: 20, 25 minutes, Your Honor.

09:43:48 9 THE COURT: Okay. Before they begin, let me
09:44:13 10 ask the attorneys to come up to the bench.

09:44:26 11 (At side bar.)

09:44:26 12 THE COURT: I was curious. Judge Greenberg I
09:44:29 13 happen to notice was here. I wondered if there's been -- I
09:44:33 14 know you guys didn't settle the case, but I wondered if
09:44:36 15 there's any benefit to -- whether there's any benefit to
09:44:40 16 taking a few minutes maybe even over the lunchtime to try to
09:44:46 17 talk.

09:44:48 18 MR. LANDSKRONER: I've been -- John and Greg
09:44:49 19 have been prepping for trial.

09:44:51 20 MR. COLEMAN: John and I have been in the
09:44:53 21 trenches.

09:44:53 22 MR. LANDSKRONER: Roger Colaizzi and I have
09:44:56 23 been talking, and it probably is worth a couple of minutes
09:45:00 24 at lunch, and I'm glad to do that with him.

09:45:01 25 THE COURT: Okay. I'll ask if he's got a

09:45:04 1 couple of minutes.

09:45:30 2 (The jury is present.)

09:45:30 3 THE COURT: So I'll ask everyone to take a
09:45:58 4 seat.

09:46:08 5 Ladies and gentlemen of the jury, at this point, the
09:46:11 6 parties are given the chance to make opening statements to
09:46:15 7 you, which is an opportunity for both sides to give you an
09:46:19 8 overview of evidence they anticipate is going to be offered.
09:46:24 9 It's also their opportunity to give you in some ways kind of
09:46:29 10 a roadmap to the evidence.

09:46:31 11 So in the order of the trial will be the plaintiff
09:46:34 12 will go first. The defense will then follow.

09:46:38 13 I wanted to raise one other thing with you, and that
09:46:42 14 is just simply that in this case, you'll be permitted to
09:46:48 15 take notes.

09:46:49 16 I'm also going to let you propose questions once we
09:46:52 17 get the witnesses in. So after each witness has testified,
09:46:58 18 I'll look over to you. If any of you have a question you
09:47:02 19 want to propose to that witness, give some indication.
09:47:08 20 Write the question down. I'll go through it with the
09:47:12 21 parties. If I make a ruling that it's appropriate to ask
09:47:15 22 the question, we'll ask the question that you propose.

09:47:22 23 Importantly, you need to move quickly because once the
09:47:25 24 witness has left the stand, it's too late. And also caution
09:47:29 25 that I'll make the decision on that. So, you know, if you

09:47:34 1 proposed a question and it's not, you know, asked, it's
09:47:38 2 because I've ruled that.

09:47:40 3 So at this point in time, I'd ask plaintiff to make
09:47:43 4 opening statement.

09:47:45 5 MR. COLEMAN: Thank you, Your Honor.

09:47:45 6 OPENING STATEMENT BY THE PLAINTIFFS

09:47:47 7 MR. COLEMAN: Good morning again, ladies and
09:47:49 8 gentleman. I'll formally introduce myself. I'm Greg
09:47:53 9 Coleman. You can probably tell from my accent I'm from a
09:47:57 10 little further south from here.

09:47:59 11 I forgot to introduce two of the most important folks
09:48:02 12 that are here in addition to our -- well, three actually.
09:48:02 13 That's Danielle Coleman. Don't hold it against her that
09:48:06 14 she's my daughter. That's Dawn Holt. And that's Deb
09:48:10 15 Spaller. And that's the rest of our team.

09:48:13 16 And we're privileged today to talk to you about three
09:48:16 17 very good, fine, important people, and that's
09:48:24 18 Kenneth Chapman, Jessica Vennel, and Jason Jackson, who is
09:48:30 19 seated. As I said, Mr. Jackson and Mr. Chapman -- raise
09:48:34 20 your hand one more time, Mr. Jackson.

09:48:35 21 There in the kind of aqua shirt.

09:48:39 22 Mr. Chapman is there in the suit and tie.

09:48:39 23 As I indicated earlier, Jessica Vennel would be here.

09:48:45 24 In fact, she's very upset she's not able to be here, but she
09:48:46 25 had some pretty tough surgery with some complications

09:48:50 1 following the surgery on June 28th, and so the Court and
09:48:55 2 opposing counsel, we're going to present her testimony via
09:48:59 3 videoconference. So you'll get to see her and observe her
09:49:02 4 and hear her testimony. It's just she's unable to be here
09:49:06 5 live because she can't travel this far.

09:49:09 6 Well, I want to talk to you about --

09:49:13 7 Can you turn on the stuff back here, please? Thank
09:49:18 8 you so much.

09:49:18 9 As the Court indicated, it's our opportunity to give
09:49:22 10 you an overview -- and you'll see it coming up on your
09:49:26 11 screen -- about what is this about? Why are we here? Why
09:49:32 12 are you taking time away from grandchildren and families and
09:49:35 13 jobs and things like that? Because it's an important case
09:49:39 14 is why.

09:49:40 15 And this case, as the court indicated earlier, is a
09:49:44 16 class action case. I think sometimes we -- and I'm guilty
09:49:49 17 of this because I used to be on that side of the V before I
09:49:54 18 changed several years ago. And I'm guilty of this. We have
09:49:57 19 this preconceived notion, class actions, that's something
09:50:01 20 where lawyers just make a lot of money and somebody gets a 5
09:50:05 21 cent coupon. This is not one of those cases. So if there's
09:50:09 22 any preconceived notion about that, that's not what this
09:50:12 23 case is about.

09:50:13 24 A class action occurs where you've got a group of
09:50:16 25 people like Mr. Jackson, who is from Colorado, like

09:50:20 1 Mr. Chapman, who is from right here in Ohio, and Ms. Vennel,
09:50:25 2 who is from Pennsylvania, they've already been vetted and
09:50:29 3 approved by the Court to stand as a representative of their
09:50:33 4 states. In other words, as opposed to having thousands of
09:50:36 5 people come in and take up your time and the Court's time,
09:50:40 6 these three folks stand as representatives for their states
09:50:43 7 with respect to the claims in this case. I hope that kind
09:50:45 8 of makes sense to you. As opposed to having witness after
09:50:49 9 witness talk about it.

09:50:51 10 Class certification has already taken place, meaning
09:50:55 11 the Court has gone through a process with opposing counsel,
09:50:58 12 with me, and with the plaintiffs identifying the claims that
09:51:01 13 you're going to decide -- you heard the Court talk about
09:51:03 14 them -- and whether these plaintiffs are entitled to
09:51:07 15 recover.

09:51:08 16 You say, well, what's the big deal? It's a 100 to
09:51:13 17 \$160 product.

09:51:14 18 Well, as you're going to hear, it is a big deal,
09:51:17 19 because all we're asking for really is our money back, and
09:51:21 20 we're having a little trouble getting it.

09:51:23 21 Why we are here. There are two things you've got to
09:51:26 22 be deciding. Judge Gwin has given us a roadmap.

09:51:31 23 Number one, as you'll see on your screen, is this
09:51:34 24 pressure cooker defective? Does it operate the way it was
09:51:38 25 intended to or is it defective such that it does not operate

09:51:38 1 the way it's intended to?

09:51:41 2 If it is defective, is it worthless? You heard the
09:51:46 3 Court talk about that in his opening comments to you right
09:51:49 4 before you left for your break. Meaning, if something's not
09:51:53 5 able to be used for its intended purpose -- our position is
09:51:56 6 a pressure cooker, you're supposed to be able to use it as a
09:51:59 7 pressure cooker.

09:52:00 8 If it's not able to be used safely for its intended
09:52:04 9 purpose, well, that product is worthless. And the defense,
09:52:06 10 of course, will explain their position after I'm done with
09:52:11 11 this portion.

09:52:11 12 Here's the key: If you find these two questions are
09:52:14 13 answered in our favor, what we're asking for is a full
09:52:17 14 refund. Just give us our money back for the products that
09:52:21 15 we paid and bought, and we want that back because they're
09:52:23 16 not worth what we thought they were when we bought them.

09:52:28 17 Now, who is Tristar. Well, what you're going to hear,
09:52:32 18 it's a company with over a billion dollars in sales. They
09:52:36 19 import products made in China to sell to the US and around
09:52:40 20 the world, a company that has made -- since 2014, it's sold
09:52:45 21 over 2 million Pressure Cooker XL units. Those are the
09:52:51 22 units right here. These are actually, if you'll look with
09:52:53 23 me, the three units of the plaintiffs.

09:52:55 24 We've had stipulations with cocounsel about certain
09:52:57 25 things, and everybody agrees that this is Miss Vennel's

09:53:01 1 unit, this is Mr. Chapman's unit, and this is Mr. Jackson's
09:53:06 2 unit, so there's no dispute about that.

09:53:11 3 Over 2 million of those have been sold. There are
09:53:13 4 three models. There's the -- well, three-plus.

09:53:16 5 There's the 770 series, which includes the 770-1.
09:53:21 6 What does that mean? It's 6 quart, all right? It's the
09:53:25 7 smaller model. The 780 model. You can imagine as the
09:53:29 8 numbers increase, the units are going to be bigger. So the
09:53:32 9 770 model is 6 quart, the 780 model is 8 quart, the 790
09:53:40 10 model is 10 quart.

09:53:41 11 Those are the products that we're here asking you for
09:53:45 12 relief on today and the next couple of days.

09:53:54 13 Now, the meat of the issue in this case, no pun
09:53:58 14 intended with the cooking, a company that touts the safety
09:54:01 15 of the Power Pressure Cooker units as its primary selling
09:54:02 16 point to an unsuspecting public is also who Tristar is.

09:54:06 17 You're going to hear about evidence about, oh, this is
09:54:08 18 the safest product. If there's even human error, the lid is
09:54:13 19 never supposed to come off while the unit is under pressure.

09:54:17 20 Well, as you'll hear from these three folks, the exact
09:54:19 21 opposite happened. Some very severe burns. And you heard
09:54:24 22 the Judge talk about there were some burns that occurred to
09:54:27 23 the plaintiffs as a result of the products in this case.

09:54:30 24 Tristar also boasts and warrants that its safety
09:54:35 25 locking device will prevent the removal of the lid of

09:54:38 1 pressure cooker while the contents are under pressure. So
09:54:42 2 you should be able to -- just as this is an example right
09:54:44 3 here.

09:54:45 4 This unit, you should be able to put your food in,
09:54:48 5 make sure the lid is on securely. You cook it for however
09:54:52 6 long you cook it, then you will release the steam. That's
09:54:56 7 the only way that you know that the product is done cooking
09:54:59 8 and there's no more pressure in the unit, because the steam
09:55:03 9 has been released.

09:55:04 10 Once that steam is released, you should be able to
09:55:07 11 open the product safely without any issues. But
09:55:10 12 unfortunately that's not what happened, not with these three
09:55:13 13 folks.

09:55:13 14 Now, here are the units that we've talked about. This
09:55:21 15 is the box it comes in. You'll see, it says up at the top,
09:55:26 16 Power Pressure Cooker XL. This is the 6 quart box as you
09:55:31 17 see in red. There are the three units sizes. The 770 model
09:55:36 18 on the far left, in the middle is the 780 model, and on the
09:55:41 19 far right is the 790 model.

09:55:43 20 Now, here are the warranties, the representations made
09:55:46 21 by the company in the owner's manual that every class member
09:55:51 22 gets, that these three folks will testify they reviewed,
09:55:55 23 they relied upon. And this is what the owner's manual says.

09:56:00 24 Lid safety device: It prevents pressure buildup if
09:56:05 25 the lid is not probably closed. That's number one. And

09:56:09 1 prevents the lid from opening until all pressure is
09:56:12 2 released.

09:56:13 3 So there's two things. Did you catch that? Two
09:56:14 4 things. Number one, it prevents the pressure from building
09:56:18 5 up if you can't get the darn thing closed. The pressure
09:56:21 6 won't build up because it's not on properly.

09:56:25 7 The other thing that the pressure cooker is supposed
09:56:27 8 to be able to do, is that once the lid is on properly, you
09:56:31 9 should never, ever, as you'll hear, be able to remove the
09:56:35 10 lid with any pressure in the unit. Okay? That, again,
09:56:38 11 makes sense.

09:56:39 12 If there's pressure in the unit and the lid is able to
09:56:43 13 come off while there's pressure there, what's going to
09:56:45 14 happen? Those super hot contents are going to come over
09:56:50 15 somebody and other areas of the kitchen, okay? That's the
09:56:55 16 primary claim in this case.

09:56:56 17 What's also represented in the owner's manual under
09:57:01 18 the frequently asked questions portion is this. It's a
09:57:04 19 great question. Why would the lid come off when it
09:57:07 20 shouldn't? Look at the answer: It should only come off if
09:57:13 21 there was no pressure inside.

09:57:16 22 I want you to remember those statements because
09:57:19 23 they're statements that the plaintiffs in this case, again,
09:57:22 24 all class members receive one of these when they buy these
09:57:26 25 that folks rely on.

09:57:28 1 What else do we know? We know that Mr. Lozano, who is
09:57:33 2 the company representative in this case, that you'll hear
09:57:36 3 live testimony from, he says the following.

09:57:38 4 The question was asked of Mr. Lozano: The Power
09:57:43 5 Pressure Cooker XLs are designed so that if there's pressure
09:57:46 6 in the unit, the lid should not be able to come off. Right?

09:57:49 7 The answer he gave was: Yes.

09:57:51 8 And then the follow-up question: If the lid can come
09:57:54 9 off, the unit's defective?

09:57:57 10 His answer: If the unit -- if the lid can come off?

09:58:01 11 Question: While there's pressure in it.

09:58:03 12 Answer: I will say that it's defective.

09:58:06 13 Well, of course.

09:58:08 14 So we know that we have to present evidence to the
09:58:11 15 Court, because the Judge wouldn't let us if we didn't. We
09:58:14 16 know it's got to be competent evidence. So we asked an
09:58:18 17 expert witness, who you'll hear from after defense and I are
09:58:23 18 finished with opening statements, and his name is Dr. John
09:58:28 19 Pratt.

09:58:29 20 Dr. Pratt, just raise your hand back there.

09:58:30 21 You're going to hear from him next. He is a Ph.D.

09:58:34 22 His background is immaculate. Structural mechanics from the
09:58:39 23 University of California. He has a Ph.D. in civil
09:58:42 24 engineering from there. He's a master of science in
09:58:45 25 mechanical engineering, California State University,

09:58:48 1 Fullerton. He holds over 40 patents. Not only is he an
09:58:52 2 engineer, he's an inventor.

09:58:53 3 I like this part. I didn't know this until I met
09:58:58 4 Dr. Pratt. He's a coinventor and lead developer of the
09:59:01 5 post-9/11 secure terrorist-proof cockpit door decompression
09:59:09 6 latches now installed on half the world's aircraft. You
09:59:12 7 think he knows about pressure? I think so. He's the author
09:59:16 8 of numerous publications.

09:59:18 9 Well, what we did was, Dr. Pratt and Tristar's expert
09:59:23 10 witness, Mr. Mattice, had a joint testing session on these
09:59:30 11 three units. We had them all meet together.

09:59:35 12 Mr. Landskroner, cocounsel of the case, was present, along
09:59:38 13 with another opposing counsel, along with the experts. And
09:59:42 14 they did the testing of these three units together so that
09:59:47 15 everybody had a fair shake to understand what the other was
09:59:50 16 doing. That makes sense.

09:59:52 17 And this is what the results of those tests -- well,
09:59:55 18 let me -- before I go to that.

09:59:56 19 An important thing to remember -- and you'll see this
09:59:59 20 in the video clips that we'll show -- to make sure that
10:00:03 21 while they were doing the tests, that when they rotated the
10:00:06 22 lid, the lid didn't come off and blow stuff all over them,
10:00:10 23 Dr. Pratt made a stop key device to stop the lid from
10:00:16 24 completely opening and the burning contents burning all over
10:00:19 25 Mr. Mattice and Dr. Pratt. That was done. You'll see that

10:00:22 1 on the video clip.

10:00:23 2 The results of the SEA testing was, you'll see on the
10:00:26 3 video, Dr. Pratt was able to rotate the lid of the
10:00:30 4 pressurized Chapman unit at a dangerously high pressure.
10:00:36 5 We'll talk about that more in a second. Mr. Mattice,
10:00:40 6 Tristar's expert, was able to rotate the lid.

10:00:41 7 And when I say rotate, that means they rotated it to
10:00:45 8 the stop key device. Because if you rotated it further, it
10:00:47 9 might blow off, and they didn't want to have that happen,
10:00:48 10 hence the device to stop it from happening. So being able
10:00:53 11 the rotate the lids means that you would be able to continue
10:00:57 12 the maneuver and open it.

10:00:59 13 The tests revealed that for all three of these units,
10:01:03 14 Dr. Pratt and Mr. Mattice were able to open them while there
10:01:08 15 was still dangerously high pressure in the units.

10:01:11 16 Now, here's what you'll hear from numbers. Now, I'm
10:01:14 17 not an engineer, good brief. I don't have that background.
10:01:18 18 But I trust people in authority who do have that background.

10:01:21 19 What the testing revealed -- and both experts agreed
10:01:25 20 with these numbers. It's not that Dr. Pratt said, for
10:01:28 21 example, the Chapman unit was a 3.8 and Mr. Mattice says it
10:01:35 22 was at, you know, 1.1. They agree as to the numbers for the
10:01:38 23 pressure.

10:01:38 24 For Chapman, a gauge pressure at 3.8 psi was found to
10:01:38 25 be present when you could rotate the lid. And if you rotate

10:01:45 1 the lid, that means it could have come off.

10:01:48 2 For Miss Vennel, the gauge pressure was 3.6 psi.

10:01:54 3 And for Mr. Jackson, the gauge pressure was a very
10:01:57 4 high 4.42 psi.

10:02:00 5 What does this mean? You know, the numbers, what does
10:02:02 6 that mean? This is what it means. Look at that next
10:02:04 7 sentence.

10:02:05 8 A pressure of 2.5 -- now, remember, all of these were
10:02:09 9 well above the pressure of 2.5 -- equates to a force of
10:02:13 10 approximately 177 pounds. This force would launch the
10:02:17 11 2.2-pound lid and the superheated contents at over 50 feet
10:02:22 12 per second. 50 feet per second. Yeah. That's what spilled
10:02:32 13 all over Mr. Jackson, Mr. Chapman, and Ms. Vennel.

10:02:41 14 Dr. Pratt's conclusions -- and you'll hear about this
10:02:43 15 from the stand -- the pressure cooker that can be opened
10:02:46 16 while still pressurized is unreasonably dangerous. For once
10:02:49 17 the law and experts kind of make sense.

10:02:52 18 Tristar misled consumers by expressly representing
10:02:55 19 that the pressure cookers could not be opened while the
10:02:59 20 contents remained under pressure when, in fact, the lid
10:03:01 21 could be rotated only using normal force while the unit
10:03:06 22 remains pressurized, in direct contradiction to the
10:03:10 23 representations.

10:03:10 24 They also represented that the lids of the pressure
10:03:13 25 cookers could not be removed with the contents under

10:03:15 1 pressure, when, in fact, they can be opened with the
10:03:18 2 contents under pressure.

10:03:20 3 And then his opinion that you'll hear him render:
10:03:23 4 It's my conclusion within a reasonable degree of scientific
10:03:26 5 and engineering certainty that all models of Tristar's Power
10:03:32 6 Pressure Cooker XLs are unreasonably dangerous.

10:03:34 7 Well, why is it we can say all models? They all have
10:03:38 8 the exact same design and manufacturing specifications. If
10:03:41 9 you get one of these -- you could get one right here in
10:03:45 10 Cleveland, Ohio, and you could get another one in Colorado,
10:03:48 11 you could get another one in Pennsylvania. They're all
10:03:51 12 designed to be the exact same. That's why we can say that.

10:03:55 13 With regard to that testing, as I mentioned earlier,
10:04:02 14 Mr. Mattice -- and I keep -- I don't know if I'm
10:04:08 15 mispronouncing his name, whether it's Mattice or Mattice.
10:04:10 16 I've talked to him before, but I just don't remember.

10:04:11 17 The methods of the pressure values Dr. Pratt reports
10:04:15 18 are accurate to a reasonable degree of scientific certainty.
10:04:19 19 That's what he says.

10:04:20 20 Well, here is Tristar's response. So you've heard,
10:04:24 21 you know, why we're here, what we're bringing this case to
10:04:28 22 you for.

10:04:29 23 Tristar completely denies the failure of their lid
10:04:31 24 safety device, and they blame the victims.

10:04:34 25 Well, what do you mean they blame the victims?

10:04:37 1 What you're going to hear their expert say,
10:04:40 2 Mr. Mattice, is that Ms. Vennel, Mr. Jackson and Mr. Chapman
10:04:44 3 all spilled the contents on themselves.

10:04:46 4 The problem with that is when the contents exploded,
10:04:50 5 as you'll hear from Ms. Vennel, the contents were so hot and
10:04:56 6 exploded so badly that there was warping on her cabinetry
10:05:01 7 from it. Because it also hit her as well as other areas in
10:05:04 8 the kitchen and went up to the roof.

10:05:07 9 Mr. Jackson, when he opened the lid as he normally
10:05:10 10 did, the contents were still under pressure, unknown to him.
10:05:13 11 The contents blew out all over his face and body and went up
10:05:19 12 to the ceiling.

10:05:22 13 Mr. Chapman, the contents -- the same way. He opened
10:05:24 14 it normally. They blew out all over him, his torso and
10:05:30 15 body, and up to the ceiling.

10:05:31 16 I don't understand Mr. Mattice when he says they
10:05:33 17 spilled it on themselves. What did they do, throw it up to
10:05:37 18 the ceiling too?

10:05:37 19 Those are the allegations made by Tristar. They're
10:05:39 20 going to blame the victim. That's what they do. Don't fall
10:05:46 21 for that kind of reasoning.

10:05:46 22 The other thing Tristar says -- and that's that top
10:05:50 23 bullet point -- well, they claim, okay, even if there is a
10:05:54 24 defect, they still have value from use either before the
10:05:58 25 episode happened or they fail from -- or they can use some

10:06:04 1 other features on the pressure cooker.

10:06:07 2 Now, let me explain that a little bit. To get around
10:06:10 3 that these products are worthless, what Tristar is going to
10:06:13 4 tell you is, well, you know, we don't think they're
10:06:15 5 defective, but if they are defective, they do have value.
10:06:18 6 They're going to say that because, gosh, Ms. Vennel used
10:06:23 7 hers safely two times and then on -- or however many times
10:06:26 8 it happened to be, and then the later time it exploded. So,
10:06:30 9 hey, she must have received some value.

10:06:33 10 You can't fall for that. Why? Because these pressure
10:06:36 11 cookers, because the design defect is present at the time of
10:06:40 12 the design and manufacture, and at the point of sale, that's
10:06:44 13 where the defect is present.

10:06:46 14 Now, the way it manifests itself, it's like playing
10:06:48 15 Russian roulette. You don't know which time the gun with
10:06:51 16 the bullet in it is actually going to trigger. You just
10:06:54 17 don't know.

10:06:55 18 So that's why we say the product, as you'll hear from
10:06:59 19 Dr. Pratt, is defective, because the lid design is all the
10:07:03 20 same at the point of purchase. It's just a matter of when
10:07:07 21 or if it manifests later on. But that's not the issue that
10:07:11 22 you need to concern yourself about.

10:07:13 23 The intended purpose of a pressure cooker is not as a
10:07:16 24 browner or as a slow cooker. It's to cook safely under
10:07:21 25 pressure. It makes sense.

10:07:23 1 The next slide, please, Dawn.

10:07:26 2 Here are some other representations about the safety
10:07:31 3 of the Power Pressure Cooker XL. Don't just believe Greg.
10:07:34 4 This is what else is being said.

10:07:37 5 George Cruz is a Tristar employee. He says he's a
10:07:41 6 chef and product engineer behind the Power Pressure Cooker.
10:07:42 7 This is what Mr. Cruz says. And I really ask you to think
10:07:46 8 about this statement all throughout the trial. He's talking
10:07:49 9 about the safety features of the Power Pressure Cooker XL.
10:07:52 10 This is what he says. Not my words, his.

10:07:55 11 All these features are designed to make sure that
10:07:58 12 whether human error or mechanical malfunction occur using
10:08:02 13 the Power Pressure Cooker is always safe.

10:08:08 14 That's what they thought they were getting.

10:08:11 15 These representations are in addition to those we
10:08:14 16 talked about the owner's manual. This is Mr. Cruz, his own
10:08:17 17 self.

10:08:19 18 I may need some sound. Technical difficulty. Please
10:08:26 19 stand by.

10:08:29 20 If necessary, use the mic.

10:08:33 21 It worked before we started this morning. That's all
10:08:35 22 I can tell you, ladies and gentlemen.

10:08:53 23 If we can't get it, I'll just represent that that's
10:08:57 24 what he says.

10:09:05 25 MR. EDWARDS: It's feeding out of here but not

10:09:08 1 there.

10:09:15 2 MR. COLEMAN: I wouldn't even bother except
10:09:17 3 it's important. And, again, if we don't get it up, I'll
10:09:22 4 just read to you what it says.

10:09:44 5 I don't want to take up the Court and jury's time.
10:09:48 6 Are we able to get it or not?

10:09:50 7 MR. EDWARDS: It's not working.

10:09:53 8 MR. COLEMAN: Let me read to you what --
10:09:56 9 again, the slide before that we talked about from Mr. Cruz,
10:09:59 10 a direct quote was as follows that I want you to really pay
10:10:03 11 attention to.

10:10:04 12 The gentleman you happened to see who was talking but
10:10:08 13 you didn't hear what he was saying, that's Mr. Cruz. And
10:10:11 14 I'm quoting this because, as you can imagine, if I didn't
10:10:16 15 quote it correctly, I would get an objection, number one.
10:10:17 16 And number two, the Court wouldn't let me do it.

10:10:20 17 So this is what Mr. Cruz says yet again: All these
10:10:21 18 features are designed to make sure that whether human error
10:10:24 19 or mechanical malfunction occur using the Power Pressure
10:10:29 20 Cooker XL is always safe.

10:10:32 21 Now, what else do we know? You're going to hear from
10:10:38 22 this gentleman --

10:10:40 23 No, wait. Go back, please, Dawn.

10:10:42 24 -- from this gentleman, whose name is Eric Theiss. He
10:10:47 25 is the product spokesperson.

10:10:49 1 If we go to the next screen, this is what Mr. Theiss
10:10:53 2 is going to say. He's their -- you may have seen him on TV.
10:10:57 3 I don't know. He's on QVC, he's on some other channels,
10:11:01 4 marketing products for different companies.

10:11:03 5 What you'll hear about Mr. Theiss also is he makes a
10:11:05 6 percentage point or half of a percentage point on every
10:11:08 7 product of the Power Pressure Cooker units that he sells for
10:11:13 8 Tristar. So he has a vested interest in this product as you
10:11:18 9 can image. The more he sells, the more money he makes.

10:11:20 10 But this is what Mr. Theiss says. When referring to
10:11:22 11 the lid, Eric Theiss states: You couldn't get this open if
10:11:27 12 you wanted to. It's one of the safest ones you can get.

10:11:31 13 Those are the things that you see on TV, the
10:11:33 14 infomercials. And the evidence is just flat out going to
10:11:37 15 show that these representations and warranties are false.
10:11:40 16 The lid can be opened with a dangerous amount of pressure
10:11:44 17 inside, and we believe that's what you're going to find.

10:11:47 18 Why don't this matter? Reality.

10:11:50 19 Ms. Vennel, I'm not going to show you the pictures,
10:11:53 20 but were able to describe to you she had extensive burns on
10:12:00 21 her right breast with some residual scarring, also some
10:12:05 22 burns in other areas that you'll get to hear her describe.

10:12:08 23 Mr. Chapman, extensive burns on his face, torso, arms.

10:12:15 24 Mr. Jackson, all over his body, but specifically some
10:12:18 25 very tough burns to his face that have thankfully healed,

10:12:23 1 but he had to go through the process.

10:12:25 2 All of those incidents occurred because the Power
10:12:28 3 Pressure Cooker still had pressure in it when the lid was
10:12:32 4 opened, despite what all of these representations say.
10:12:35 5 That's the damage that can be done.

10:12:37 6 Why are you here? And I'm going to wrap up with this.
10:12:41 7 You're here to sold Tristar accountable for selling a
10:12:46 8 defective product. You're here to hold Tristar to their
10:12:50 9 promise that even with human error, these lids will not come
10:12:54 10 off while the units are under pressure. You're here to hold
10:12:55 11 these units are worthless because it's unsafe and unfit for
10:12:59 12 it's intended purpose as a pressure cooker. You're hear to
10:13:02 13 give these three plaintiffs and the class members a refund
10:13:06 14 of the purchase price.

10:13:07 15 And you're like, that's why I'm here? It's important.
10:13:11 16 Number one, to make sure others don't have this exact same
10:13:14 17 thing happen to them. That's why. You're not just speaking
10:13:21 18 for these three, you'll be speaking for others.

10:13:24 19 So at the end of the case -- I'm going to sit down and
10:13:28 20 shut up, and you'll probably be saying thank you. At the
10:13:31 21 end of the case, after all the evidence -- and I want you to
10:13:33 22 listen to all of it. You're going to hear our side, you're
10:13:36 23 going to hear their side, but at the end of the case I'm
10:13:39 24 going to come back to you.

10:13:41 25 And I'm going to say, number one, we've proven to you

10:13:42 1 there was a defect. Number two, I'm going to say we've
10:13:46 2 proven to you that they're worthless. And I'm going to ask
10:13:48 3 you to come back with a verdict accordingly.

10:13:51 4 Thank you so much for your attention.

10:13:55 5 THE COURT: Mr. Lewis.

10:13:55 6 OPENING STATEMENT BY THE DEFENDANT

10:13:55 7 MR. LEWIS: May it please the Court, counsel,
10:13:58 8 members of the jury, good morning.

10:14:01 9 April 9th of this year, I'm sitting on the floor of my
10:14:08 10 house over the river in Tremont with my hair out to here.
10:14:12 11 My son's birthday present was a robotic arm. I'm trying to
10:14:17 12 put it together. It's not working. I can't figure it out,
10:14:21 13 and my brilliant son says to me, "Dad, read the
10:14:28 14 instructions." Of course, I hadn't because I know
10:14:33 15 everything. And when I did read the instructions, or
10:14:38 16 frankly when Jamison read the instructions to me, the
10:14:40 17 robotic arm worked just fine.

10:14:43 18 Ladies and gentlemen, the evidence is going to show in
10:14:47 19 this case that when the instructions are followed, this
10:14:52 20 cooker is a safe and valuable product.

10:15:00 21 Over 2 million people feeding their families, 2
10:15:04 22 million. Think of this.

10:15:06 23 Remember last year about this time we had a big parade
10:15:10 24 in this city. We put a million folks here after the Cavs
10:15:16 25 won the NBA championship. Double that. That's how many

10:15:22 1 folks are feeding their families with this cooker. Safety
10:15:25 2 and value.

10:15:26 3 The evidence is going to show that this expert,
10:15:30 4 Dr. Pratt, from California, who appears to have a fantastic
10:15:36 5 resumé, was unable to replicate, duplicate, simulate,
10:15:43 6 recreate, what the plaintiffs describe happened to them in
10:15:49 7 this case. Unable to do it.

10:15:52 8 At the end of this trial, we're going to ask you to
10:15:55 9 apply these everyday concepts - safety, value, but, most
10:16:00 10 importantly, common sense - and find for Tristar.

10:16:04 11 As you know, I'm John Lewis. You're going to see a
10:16:08 12 handful of us working hard to make sure that the
10:16:11 13 presentation to you is efficient and as short as possible.
10:16:14 14 But this case is important to Tristar. You will see in the
10:16:17 15 back of the courtroom, we've already introduced Keith
10:16:21 16 Mirchandani, the CEO, the founder of the Tristar, a 25-year
10:16:25 17 company. Employs over 100 people and contracts with a
10:16:29 18 thousand other United States employees, keep them busy.

10:16:33 19 You'll see Matt Fisher, Alex Lozano, Jim Myers, other
10:16:38 20 folks from Tristar. This is an important case for them.

10:16:43 21 Over 25 years ago, Mr. Mirchandani started this
10:16:47 22 company in his parents' garage. He works with people who
10:16:54 23 have ideas, like the idea for the Power Pressure Cooker XL,
10:16:57 24 to bring it to the market in the United States.

10:17:01 25 And what you're going to hear, and you'll get this

10:17:04 1 testimony from Mr. Fisher, Matt Fisher, that the best United
10:17:11 2 States brands sell this cooker.

10:17:19 3 The brands that we all trust, Bed Bath & Beyond,
10:17:23 4 Kohl's, Amazon -- in fact, I think Amazon Prime Day is
10:17:27 5 tomorrow; I read all about it in the news -- QVC, Target,
10:17:32 6 sell this pressure cooker. You don't get in those stores,
10:17:37 7 Mr. Fisher will tell you, without a good and valuable
10:17:40 8 product. You don't stay in those stores without a good and
10:17:45 9 valuable product.

10:17:48 10 Talk a little bit about what this pressure cooker can
10:17:51 11 do. First of all, beyond making food with its pressure
10:17:58 12 cooker function, it's a slow cooker, you can saute food, you
10:18:04 13 can do canning.

10:18:05 14 Why is that important? Because as you heard
10:18:08 15 Mr. Coleman say, his view and the view of the plaintiffs is
10:18:11 16 that this is worthless. It's not worthless even if the
10:18:16 17 pressure cooker feature doesn't work. This is a multicooker
10:18:20 18 with lots of value to 2 million people feeding their
10:18:24 19 families in the United States today.

10:18:25 20 Why is this -- why do we know this is a high quality
10:18:30 21 product? You're going to hear from Mr. Lozano about the
10:18:34 22 certifications and the compliance. He's going to come and
10:18:41 23 testify about what Tristar did to make sure this product is
10:18:45 24 safe. ISO, European standards, UL, American National
10:18:54 25 Standards Institute, all of the things that are required to

10:18:56 1 bring a product like this to the United States were
10:18:59 2 fulfilled.

10:19:00 3 And you'll see it right on the back when you get a
10:19:03 4 chance to look at the cooker. You'll see all these
10:19:08 5 certifications. You don't get to put this on your cooker
10:19:12 6 unless you pass all of these tests. And that's what
10:19:15 7 Mr. Lozano will talk about.

10:19:17 8 There's also an extensive quality assurance process.
10:19:21 9 And this is just a high level summary. You're going to hear
10:19:24 10 about Mr. Lozano talk about all of the things that are done
10:19:27 11 to this cooker before it's allowed to be put on the shelves
10:19:31 12 at Target, Bed Bath & Beyond, Kohl's.

10:19:37 13 Not only do we validate the design from the supplier,
10:19:41 14 we get regulatory approval. We do testing on specific
10:19:46 15 devices. And for each lot of devices that is brought to
10:19:50 16 market to the United States, specific cookers are taken off
10:19:54 17 the line and vigorously tested to make sure that they
10:19:59 18 comply, that the lid stays on, that they comply with the all
10:20:02 19 the design specs.

10:20:04 20 Additionally, every single one of these cookers is
10:20:07 21 tested individually before it's allowed to go on a shelf in
10:20:10 22 the United States at a Kohl's or a Target. You can't get
10:20:15 23 that if there's a problem with the device.

10:20:19 24 Thank you.

10:20:23 25 Back to the owner's manual. Now, I noticed

10:20:28 1 Mr. Coleman put on some pages of the manual but not all of
10:20:32 2 them. So let's take a look at some of the pages of this
10:20:38 3 manual.

10:20:38 4 On the very front page, the bottom left-hand corner.
10:20:45 5 Important: Do not use this pressure cooker until you have
10:20:50 6 read the entire manual thoroughly.

10:20:54 7 Do not use it until you've read the entire manual
10:21:02 8 thoroughly.

10:21:03 9 Page 6. Read and follow all instructions carefully.

10:21:07 10 Of course. It's a pressure cooker. They have hot
10:21:10 11 liquids in it. Always be careful. When I boil water to
10:21:14 12 make hardboiled eggs, I should be careful. When I use a
10:21:18 13 toaster, I should be careful. I should make sure I know how
10:21:22 14 to use it.

10:21:25 15 Extreme caution must be used when moving the
10:21:29 16 appliance, the cooker. It has hot liquids in it.

10:21:32 17 This appliance cooks under pressure. Improper use may
10:21:37 18 result in scalding injury.

10:21:40 19 Here's the key: Do not open the Power Pressure Cooker
10:21:47 20 XL until the unit has cooled and all internal pressure has
10:21:51 21 been released.

10:21:53 22 Right here. This is the valve. All internal pressure
10:21:59 23 has been released.

10:22:03 24 If the unit is difficult to open, if the unit. This
10:22:10 25 has no pressure in it. That's locked.

10:22:19 1 If this is hard to open, it indicates that the cooker
10:22:27 2 is still pressurized. Do not force it open.

10:22:34 3 And, oh, just in case you didn't read that, in bold
10:22:39 4 caps: Never force open the Power Pressure Cooker XL. Never
10:22:46 5 force open the Power Pressure Cooker XL.

10:22:51 6 Why am I repeating myself on this? Why am I
10:22:55 7 continuing to say, don't force open the Power Pressure
10:22:59 8 Cooker XL? Because you're going to see in this case that
10:23:03 9 every single test that fancy expert from California did
10:23:07 10 violated that instruction right there. Never force open the
10:23:11 11 Power Pressure Cooker XL. Every single test that he did, he
10:23:15 12 violated that instruction. That's what the evidence is
10:23:20 13 going to show.

10:23:22 14 When you follow the instructions, this product is safe
10:23:28 15 and valuable.

10:23:29 16 Can I see that next slide?

10:23:32 17 Hot lid warning: Use the black composite handle -- do
10:23:40 18 you see how easy this is to open? This is it. Every single
10:23:43 19 time that you see someone from Tristar or a representative
10:23:47 20 from Tristar opening this lid after a cook cycle has been
10:23:51 21 completed, that's what they're doing. That's how easy it is
10:23:55 22 to open. Use this handle only when you open the lid.

10:24:01 23 This stuff down here, it's hot. Start putting your
10:24:09 24 hands around here, it's hot, of course. Use this to open.

10:24:20 25 Press down gently on the lid and turn clockwise until

10:24:25 1 it meets resistance. This will not pressurize, will not
10:24:33 2 pressurize unless it's locked. If you don't have this
10:24:36 3 locked, you cannot pressurize it. Pressure will not build
10:24:39 4 on this. It has to be in the locking position before it
10:24:44 5 pressurizes. When the pressure is released, it opens. It's
10:24:47 6 that simple.

10:24:52 7 This is the warranty. You're going to hear about a
10:24:55 8 breach of warranty in this case. That's what the plaintiffs
10:24:57 9 are claiming. This is the warranty.

10:25:01 10 Number 2. The warranty extends to the original
10:25:07 11 consumer. This warranty is void if the product has been
10:25:11 12 subject to accident, misuse, abuse, improper maintenance or
10:25:17 13 repair, or unauthorized modification.

10:25:20 14 Ladies and gentlemen, I submit to you that every test
10:25:24 15 that was run by Dr. Pratt voided the warranty. He abused
10:25:31 16 it, he misused it, and he made unauthorized modifications to
10:25:36 17 run this test. That's a fact. That's a fact.

10:25:44 18 So why are we here? We need your help to solve a
10:25:49 19 dispute. That's the great thing about the American jury
10:25:54 20 system. You folks get to decide. Judge Gwin will at the
10:25:58 21 end of the case read some instructions, some law. You get
10:26:01 22 to take what you heard, the evidence that you're allowed to
10:26:04 23 use, and you get to make the decisions. That's all in your
10:26:07 24 hands. That's the great thing about this jury system.

10:26:10 25 And while the plaintiffs say, well, we were injured

10:26:15 1 and so on behalf of the class, these pressure cookers, which
10:26:19 2 are feeding 2 million families in the United States, are
10:26:22 3 worthless, we say, not so fast. We say, if you can't
10:26:27 4 replicate, duplicate, or recreate what the plaintiffs say
10:26:32 5 happen, then you don't have a theory in this case of defect.
10:26:36 6 You can't show a breach of warranty.

10:26:39 7 If you can't prove that every single person who has
10:26:44 8 received a Power Pressure Cooker XL that's worthless to
10:26:47 9 them, you can't prove your case. We know for a fact they
10:26:51 10 can't prove their case.

10:26:52 11 You're going to hear from chef Eric Theiss.
10:26:56 12 Mr. Coleman mentioned him earlier. He's going to say, hey,
10:27:00 13 I've used this thing a thousand times. He's going to say, I
10:27:04 14 tested the features myself. I've let my friends' kids use
10:27:09 15 this cooker. He's going to show you that when it's used as
10:27:14 16 intended, it's a safe and valuable product.

10:27:20 17 I'm going to end with this, ladies and gentlemen. I
10:27:25 18 don't normally do this in opening statements. Frankly, most
10:27:31 19 people would say, are you crazy? But this is what I'm going
10:27:35 20 to do.

10:27:36 21 I had the company make a safe box. I'll show it to
10:27:41 22 Dr. Pratt out in the hallway. I got a factory cooker right
10:27:46 23 off the line. Show me that if you follow the instructions,
10:27:53 24 that if you follow these instructions, that lid blows off
10:27:57 25 that cooker like the plaintiffs describe. Go ahead. Follow

Pratt (Direct)

10:28:00 1 the instructions and show me that that lid blows off that
10:28:04 2 cooker like the plaintiffs say. They're not going to do it.

10:28:10 3 And at the end of the case when they haven't done it,
10:28:13 4 I'm going to ask you to find for Tristar. Thank you.

10:28:17 5 Thank you, Your Honor.

10:28:17 6 THE COURT: Would you call your first witness.

10:28:21 7 MR. COLEMAN: Yes, Your Honor. We'll call
10:28:25 8 Dr. John Pratt.

10:28:43 9 (Witness sworn.)

10:28:48 10 THE COURT: Please take a seat. Get close to
10:28:50 11 the microphone. Once you get there, tell us your name and
10:28:53 12 tell us how you spell your last name.

10:28:58 13 THE WITNESS: Yes. My name is John Dillworth
10:29:01 14 Pratt. And my last name is spelled P-R-A-T-T.

10:29:06 15 THE COURT: Counsel.

10:29:06 16 MR. COLEMAN: Thank you, Your Honor.

10:29:06 17 JOHN D. PRATT, Ph.D.

10:29:06 18 - - - - -

10:29:10 19 DIRECT EXAMINATION

10:29:10 20 BY MR. COLEMAN:

10:29:11 21 **Q** Dr. Pratt, you just introduced yourself to the Court
10:29:14 22 and to the jury. Can you just give the Court and jury an
10:29:19 23 overview of your educational background because I want to
10:29:24 24 cut to the chase with respect to --

10:29:27 25 Okay. We need to hit the screen.

Pratt (Direct)

10:29:31 1 -- with respect to -- I think Mr. Lewis referred to
10:29:34 2 you as the fancy expert from California. But let's make
10:29:37 3 sure the jury understands you're qualified and give your
10:29:40 4 background with respect to your CV.

10:29:42 5 **A** Yes. Well, I pretty much grew up in the fastener
10:29:47 6 industry, fasteners, latches, things that need to lock. I
10:29:51 7 have a bachelor of science degree from California State
10:29:54 8 University, a bachelor of science degree from California
10:29:58 9 State University [sic]. Both of those are mechanical
10:30:00 10 engineering, having to do with mechanisms and things like
10:30:02 11 that. And a Ph.D. in structural mechanics, civil
10:30:08 12 engineering from the University of California.

10:30:10 13 So I spent my entire career, basically in aerospace.
10:30:14 14 I did some sporting goods for a few years when aerospace was
10:30:18 15 down, some automotive, white goods, like, you know, washing
10:30:24 16 machines and lawnmowers and things like that. Fasteners go
10:30:27 17 into just about everything, but primarily aerospace.

10:30:30 18 I left industry in 2005, pretty much retired, to go
10:30:34 19 into private practice as a consulting engineering. So since
10:30:37 20 2005, I do engineering consulting. I have clients in
10:30:44 21 France, Los Angeles, in Asia. And then I also do litigation
10:30:48 22 consulting, this type of work, products liability and patent
10:30:51 23 infringement.

10:30:52 24 **Q** And we see it there on our screen, Dr. Pratt.

10:30:55 25 So around 2005 you formed Argos Engineering out in

Pratt (Direct)

10:31:01 1 California?

10:31:01 2 **A** That's correct.

10:31:02 3 **Q** And you've talked about your background. One of the
10:31:08 4 things that did interest me just from a pure interest
10:31:12 5 standpoint is, tell us about the fasteners, the pressure
10:31:15 6 fasteners that you developed and invented that go on these
10:31:19 7 airplane cockpit doors.

10:31:22 8 **A** Well, I was working for Hartwell Aerospace at the
10:31:25 9 time. And Hartwell is one of the largest manufacturers of
10:31:29 10 latching mechanisms, you know, the latches that keep the
10:31:31 11 engine nacelles closed or that are used for the overhead
10:31:36 12 bins on airplanes, access doors.

10:31:39 13 And prior to 9/11, it was -- you know, some of the
10:31:43 14 narrow body airplanes have decompression panels in the
10:31:48 15 flight deck door, so that if the window blows out in the
10:31:51 16 airplane, these panels are supposed to open up to equalize
10:31:54 17 the pressure between the cabin and the cockpit. If you
10:31:57 18 didn't do that, that forward bulkhead would crash inward and
10:32:01 19 probably destroy some of the flight controls. But,
10:32:05 20 unfortunately, they needed to open up under a very small
10:32:08 21 differential pressure.

10:32:09 22 Prior to 9/11, you could walk up to those cockpit
10:32:11 23 doors and just palm the panels open, reach in and undo the
10:32:15 24 doorknob. The terrorists didn't need box knives to get in,
10:32:21 25 or keys.

Pratt (Direct)

10:32:22 1 So after 9/11, my team and I came up with mechanical
10:32:26 2 decompression latches that sensed a rapid decompression
10:32:30 3 event. It would automatically unlock the door. Had to do
10:32:34 4 that in about 4 milliseconds. And those ended up on all of
10:32:38 5 the Boeing and Embraer and Bombardier single-aisle
10:32:41 6 airplanes, some of the old Douglas legacy airplanes, about
10:32:44 7 half the world's fleet of aircraft. And they're still using
10:32:45 8 them today, now 16 years later.

10:32:51 9 **Q** Dr. Pratt, with respect to your background and the
10:32:56 10 credentials you've talked to us, does it give you an ability
10:32:59 11 to do the testing and to form the opinions that you're going
10:33:02 12 to give here today?

10:33:03 13 **A** Yes, it does.

10:33:05 14 **Q** I want to move on to another area.

10:33:12 15 MR. COLEMAN: And what I would like to do,
10:33:14 16 Your Honor, if that's okay with the Court -- well, let me
10:33:19 17 ask this of Dr. Pratt before I go any further.

10:33:24 18 **Q** Dr. Pratt, just like Mr. Mattice on the defense end,
10:33:27 19 you get paid for your services in cases like this?

10:33:29 20 **A** That's correct.

10:33:31 21 **Q** Unfortunately, you don't give any freebies to lawyers.
10:33:33 22 We have to pay when we use services of folks, right?

10:33:37 23 **A** That's right.

10:33:37 24 **Q** All right. With respect to some things that -- I want
10:33:42 25 to get it out of the way right now.

Pratt (Direct)

10:33:44 1 With respect to some statements Mr. Lewis made in his
10:33:48 2 opening statement, it sounds like instead of trying the
10:33:51 3 plaintiffs, he's going to try you.

10:33:53 4 His first comment was -- or not his first but
10:33:56 5 somewhere, and it was, you're going to see or hear that
10:34:00 6 Dr. Pratt didn't try to recreate what the plaintiffs did
10:34:03 7 with respect to how they opened their pressure cookers.

10:34:07 8 Can you explain to the Court and jury what you did do
10:34:10 9 and why you didn't try to do that?

10:34:12 10 **A** Well, yes. I wasn't asked to try to do an accident
10:34:16 11 reconstruction. I was simply asked to inspect the three
10:34:22 12 accident units and some similar exemplars and see if I could
10:34:27 13 identify a defect in the design or manufacturing that would
10:34:31 14 allow that lid to come off under pressure. I mean, it's
10:34:35 15 pretty obvious that if there's significant pressure inside,
10:34:38 16 it's going to blow that lid off and probable cause some
10:34:42 17 damage.

10:34:42 18 So I was tasked with finding out what those levels of
10:34:46 19 pressure were, whether a person could easily remove that lid
10:34:50 20 under pressure and look for any other defects that might
10:34:53 21 have contributed to the injuries to the class plaintiffs in
10:34:57 22 this case.

10:34:57 23 **Q** Right.

10:34:58 24 You weren't asked by me to try to go recreate what
10:35:03 25 Mr. Jackson did or Mr. Chapman did or Ms. Vennel did,

Pratt (Direct)

10:35:08 1 because there's really no way to do that, is there, sir?

10:35:11 2 **A** Well, yes. I wasn't asked to do that, and I wouldn't
10:35:15 3 know about how to do it in the first place.

10:35:18 4 **Q** Right. I mean, what your sole job was to do was to
10:35:21 5 see if these units complied with the warranties about the
10:35:24 6 fact that they could never be opened under pressure and
10:35:28 7 whether that was true or not?

10:35:29 8 **A** That's correct.

10:35:30 9 **Q** Okay. So was Mr. Mattice with you at the time that
10:35:37 10 the two of you tested all three of these units?

10:35:40 11 **A** Yes. I had tested the Chapman unit at my home office
10:35:46 12 before I sent them to the SEA labs. But once at the SEA
10:35:50 13 labs, then Mr. Mattice and I tested the other three units.
10:35:55 14 Actually, I did the testing on the Chapman to show how I
10:35:59 15 thought it should be done, and then Mr. Mattice tested the
10:36:08 16 Vennel and the Jackson units afterwards.

10:36:10 17 **Q** So you were there, Mr. Mattice was there, counsel for
10:36:12 18 plaintiff was there, and counsel for defendant was there?

10:36:15 19 **A** That's correct.

10:36:16 20 **Q** And there were certain conditions given for the test.
10:36:20 21 In fact, in a few minutes we'll look at some video clips.
10:36:24 22 And the thing is, you won't hear any sound on those clips,
10:36:29 23 will you, sir?

10:36:30 24 **A** I don't think so.

10:36:30 25 **Q** And that's because we wanted the jury to understand

Pratt (Direct)

10:36:34 1 and not hear any discussions between the parties that might
10:36:37 2 not be admissible so that they could see how the testing was
10:36:41 3 actually performed without comment; is that right?

10:36:43 4 **A** That's right.

10:36:44 5 MR. COLEMAN: Okay. Your Honor, can I have
10:36:46 6 Dr. Pratt come down here to do a little show and tell with
10:36:49 7 the juror?

10:36:52 8 THE COURT: Yes. Just make sure you keep your
10:36:55 9 voice up.

10:36:57 10 THE WITNESS: Okay.

10:36:59 11 BY MR. COLEMAN:

10:37:00 12 **Q** Okay. Dr. Pratt, would you just turn to the jury and
10:37:04 13 tell them which units we have here in front of us as shown?

10:37:08 14 **A** Yes. Well, we have the two 6-quart units, Chapman and
10:37:14 15 Vennel. These are actually made by different manufacturers
10:37:16 16 in China. One of these is a PPC770 and the other is the
10:37:21 17 770-1. But otherwise they're identical. You can't tell the
10:37:25 18 difference between them.

10:37:26 19 This is the 780. This is the 8-quart unit that
10:37:31 20 belonged to Mr. Jackson.

10:37:33 21 **Q** All right. So far what I want you to do for the jury
10:37:37 22 and help them understand when we're talking about whether
10:37:40 23 pressure is still present in the unit while you're trying to
10:37:43 24 open it, did you undertake to do some testing with respect
10:37:47 25 to the Chapman unit?

Pratt (Direct)

10:37:49 1 **A** Yes. Let me walk you through how these locking
10:37:55 2 features work.

10:37:57 3 What I was doing was inspecting to see whether this
10:37:59 4 locking feature was effective in preventing this lid from
10:38:03 5 coming off. This is a screen designed to help prevent food
10:38:08 6 debris from getting up here and clogging the works. I'm
10:38:13 7 going to leave this out for the demonstration but --

10:38:22 8 (Reporter interjection.)

10:38:22 9 **Q** Dr. Pratt, so that the court reporter and the jury can
10:38:27 10 hear you, we're going to ask you to have a mic attached to
10:38:31 11 your lapel on your jacket.

10:38:44 12 **A** So this is the lid. I'm looking at the Jackson unit.
10:38:48 13 The lid and the base --

10:38:53 14 **Q** You can move them around.

10:38:55 15 **A** If you notice on the base, there's a series of
10:38:58 16 protruding lugs. There's six of these around the periphery.
10:39:02 17 And there are some mating lugs on the lid with gaps. So
10:39:10 18 when this goes on, these lugs go through the gaps. And when
10:39:17 19 I rotate it, now the lugs become overlapped so that I can't
10:39:22 20 get the lid off. This one being the lid, I just can't get
10:39:25 21 it past there without breaking some metal.

10:39:31 22 So the idea is that once I get into this position, and
10:39:33 23 only in this position, should the contents pressurize. So
10:39:37 24 to do that, we have what's called the locking pin. That's
10:39:41 25 that little piece here. You see it going in and out? And

Pratt (Direct)

10:39:46 1 it goes out a lot.

10:39:49 2 This little locking pin is connected to a sheet metal
10:39:53 3 piece inside the lid. It's actually about the shape of my
10:39:57 4 finger.

10:39:57 5 So I've got the pin coming out here. Sheet metal
10:40:02 6 rides up into the lid. And over here there's a hole in the
10:40:05 7 top of that sheet metal piece. This float metal on the
10:40:11 8 bottom, pressure will push that up through that hole but
10:40:16 9 only if the lid is fully locked such that this pin is
10:40:22 10 retracted.

10:40:23 11 Now, that hole is aligned with the float valve and it
10:40:28 12 will pressurize. If it's in that position, they're not
10:40:32 13 aligned, so the float valve cannot go up, it cannot
10:40:37 14 pressurize. So Tristar is right when they say that this
10:40:38 15 thing cannot pressurize unless the lid has been rotated to
10:40:40 16 the fully locked position.

10:40:42 17 At that point, if I plug it in, I've got food in the
10:40:45 18 unit, I plug it in, the float valve will go up through that
10:40:48 19 hole, and that should be it. It's like a deadbolt. I
10:40:51 20 shouldn't be able to rotate that lid at all. According to
10:40:56 21 Tristar, that's what prevents the lid from opening when it's
10:41:01 22 pressurized.

10:41:02 23 However, if I artificially extend that through the
10:41:09 24 hole, you can see it's not very effective. The deadbolt
10:41:16 25 doesn't work.

Pratt (Direct)

10:41:20 1 **Q** And you're not saying that the plaintiffs in this case
10:41:22 2 did that or that has anything to do with it. You're just
10:41:25 3 giving an example of what could happen?

10:41:27 4 **A** I'm giving an example of what could happen.

10:41:31 5 So there are actually two things that make it
10:41:34 6 difficult to open the lid when it's pressurized. One is the
10:41:37 7 action of that deadbolt. That's through that strike plate
10:41:40 8 so that pin can't move in and out.

10:41:43 9 And the other is there's going to be some natural
10:41:47 10 friction between these locking lugs and these locking lugs,
10:41:50 11 because pressure is trying to push this lid up and so
10:41:54 12 there's going to be a little friction there.

10:41:55 13 The fact is that the deadbolt doesn't work, at least
10:41:59 14 not well enough to keep the lid from opening.

10:42:03 15 **Q** Is that what you're telling the Court and jury the
10:42:07 16 defect actually is, Dr. Pratt, and can you describe it in
10:42:10 17 detail for us?

10:42:11 18 **A** I thought I just did.

10:42:13 19 **Q** Just kind of encapsulate it because we're not
10:42:16 20 engineers. That's what I mean.

10:42:17 21 **A** The fact is that this locking feature doesn't work.
10:42:21 22 It's just ineffective.

10:42:23 23 And I was asked during my deposition why it wasn't
10:42:26 24 effective. And my answer was that, well, the dimensions and
10:42:30 25 the features that make up this locking mechanism are such

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10:42:35 1 that it's just ineffective.

10:42:37 2 This sheet metal piece, this pin it's connected to,
10:42:41 3 it's -- I guess it's about the shape of my finger, it's just
10:42:45 4 too flexible. It's about 2 millimeters thick, which is a
10:42:50 5 little more than a 16th of an inch. And as I rotate this
10:42:54 6 lid, this portion of the locking pin rides like a camel on
10:43:00 7 this outer surface, and it just bends that little sheet
10:43:05 8 metal piece. It's not stiff enough.

10:43:08 9 **Q** And is that design and defect present on all of the
10:43:14 10 770, 770-1, the 780, and the 790 series pressure cookers?

10:43:21 11 **A** Yes. The design is common between all the XL models.
10:43:25 12 About the only thing that changes is as these models get
10:43:28 13 bigger, that the -- you know, of course the diameter of the
10:43:31 14 pot gets larger, so the locking lugs are a little bit larger
10:43:35 15 and the lids are a little bit larger. But the locking
10:43:39 16 feature itself is identical across all the models.

10:43:42 17 **Q** And are they like that at the point of sale, meaning
10:43:45 18 when Mr. Jackson, Mr. Chapman, and Ms. Vennel purchased
10:43:48 19 these units?

10:43:50 20 **A** Yes. They're like that when they leave the factory in
10:43:53 21 China.

10:43:53 22 **Q** Okay. Is there any way for a consumer or a user to
10:43:56 23 know when they purchase these units that there's a defect
10:44:02 24 already present?

10:44:03 25 **A** No, there's no way to know.

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10:44:04 1 **Q** Continue staying here for just one more minute,
10:44:08 2 Dr. Pratt, in case.

10:44:09 3 When you tested -- and we saw this on the PowerPoint.

10:44:16 4 When you tested Kenneth Chapman's unit, there was some
10:44:20 5 mention about the lid being able to be rotated at 2.5 psi?

10:44:24 6 Can you explain those terms to us? You know, what is
10:44:27 7 psi, how is the pressure measured, and those sorts of
10:44:33 8 things?

10:44:33 9 **A** Yes. When I talk about pressure, I'm talking about
10:44:35 10 the pressure inside the unit that's above the pressure that
10:44:39 11 we have here. I mean, we have ambient pressure that's
10:44:43 12 around 14.7 pounds per square inch.

10:44:48 13 **Q** Is that present just in the courtroom?

10:44:50 14 **A** That's just everywhere, right. That's the average at
10:44:52 15 sea level, so -- which is actually the weight of 1 square
10:44:58 16 inch -- you know, we have a tube that's 1 inch square all
10:45:00 17 the way up to the outer space, that's how much that air
10:45:04 18 would weigh, 14.7 pounds.

10:45:07 19 But when we talk about pressure in relation to these
10:45:10 20 cases, I'm talking about the pressure above that that's
10:45:12 21 inside the unit. So if there's still pressure inside the
10:45:16 22 unit, you should be able to take it off and nothing
10:45:19 23 happened. Nothing's going to steam out.

10:45:19 24 But if I've got 2 or 3 or 4 psi, pounds per square
10:45:26 25 inch of pressure in the unit, when I open it -- if I go to

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10:45:28 1 open it like this, where the pressure in there, there's
10:45:30 2 going to be a lot of steam, a lot of hot contents flying out
10:45:34 3 of there.

10:45:35 4 In fact, if I've got, say, 4 pounds of pressure in
10:45:39 5 there, 4 psi of pressure, and I open up the relief valve, it
10:45:44 6 will sit there and steam for about 2 minutes. That's a lot
10:45:50 7 of -- 4 psi pressure, for example, is a lot of compressed
10:45:56 8 air inside this unit.

10:45:58 9 **Q** Let me ask you this: When you talk about pressure
10:46:00 10 inside the unit, we discussed earlier the gauge readings
10:46:08 11 inside the unit, for example, 2.5. What's that equivalent
10:46:11 12 to if there's 2.5 psi of pressure remaining in the units
10:46:16 13 when you go to open it? Give us an example.

10:46:20 14 **A** That's about 177 pounds. So at the testing that I did
10:46:24 15 at my home office before we moved all the units over to the
10:46:27 16 SEA lab, I was able to open it with 2 1/2 pounds of pressure
10:46:34 17 in there, 2 1/2 pounds per square inch of pressure.

10:46:39 18 And I measured that pressure by removing this -- I did
10:46:40 19 it the same way the manufacturer in China does and the way
10:46:44 20 Tristar does it for their certification testing. I removed
10:46:47 21 this pressure relief valve, and I put a little pressure --
10:46:50 22 steam pressure gauge on here instead in the same hole that
10:46:54 23 goes down inside, and they tell me what the pressure was
10:46:57 24 inside the unit. The same way the manufacturer does it.
10:47:01 25 And at 2 1/2 psi, I was able to rotate that lid.

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10:47:06 1 And when we moved these units to the SEA lab --

10:47:11 2 **Q** Tell the Court and jury who the SEA lab is so that we
10:47:15 3 understand the context.

10:47:16 4 **A** Yeah, I can't remember what the acronym stands for,
10:47:19 5 but it's a forensic engineering lab in Columbus, Ohio.

10:47:24 6 **Q** And that is where Mr. Mattice and you and the lawyers
10:47:27 7 were present to conduct the joint testing?

10:47:29 8 **A** Yes. SEA was engaged by the defendants in this case
10:47:32 9 to do an examination.

10:47:33 10 So at the SEA labs, we repeated -- I demonstrated how
10:47:39 11 I run the test at my home office, and we repeated those
10:47:43 12 steps on all three units at SEA. We made one minor change,
10:47:47 13 though.

10:47:49 14 When we run this test, when you're opening this thing
10:47:53 15 under pressure, if you go too far and open it, somebody is
10:47:58 16 going to get hurt. Okay?

10:47:59 17 When I was doing the test at home, what I did is I
10:48:03 18 started with that thing in the halfway position and closed
10:48:05 19 it to determine if I could rotate it under 2 1/2 psi of
10:48:10 20 pressure. Okay?

10:48:11 21 I would have been crazy to go this way and take it
10:48:15 22 off, ended up with severe burns.

10:48:17 23 So I made what I call a stop key. A stop key is just
10:48:21 24 a little piece of sheet metal. And by dropping that into
10:48:26 25 the unit, right there, in that little recess, now I can set

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10:48:33 1 it to the fully closed position, plug it in, let it heat up,
10:48:37 2 and at various pressures that I see on my gauge, I can try
10:48:41 3 to rotate it until it rotates. But that little stop key
10:48:46 4 prevents it from going that extra half an inch and cause
10:48:50 5 this thing to blow up. Okay? That's what the stop key
10:48:54 6 does.

10:48:54 7 **Q** And that was what was done at the joint testing
10:48:58 8 facility to make sure that when you and Mr. Mattice were
10:49:01 9 doing the testing, it didn't come open and blow all over
10:49:06 10 you?

10:49:07 11 **A** Right, so one of us didn't end up in the hospital as a
10:49:11 12 result.

10:49:11 13 Now, I know that the defendants in this case are going
10:49:12 14 to argue that the stop key prevented this thing, this
10:49:16 15 locking pin right here, from rising up to the maximum
10:49:19 16 outside diameter of this locking lug, which would have been
10:49:24 17 the greatest resistance, the most flexure of that strike
10:49:29 18 zone.

10:49:29 19 But that's not the case at all, because if I put that
10:49:32 20 in there, this thing is all the way out, as far as it goes.
10:49:37 21 At least a quarter of an inch of rotation before I even hit
10:49:41 22 the stop key, it's out. It's not moving at all. So I'm
10:49:46 23 already on the outside.

10:49:47 24 So the testing that we did at the SEA labs, when we
10:49:54 25 said we rotated it at, say, 3.8 psi, that was the maximum

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10:50:00 1 resistance that we were going to see. And without that stop
10:50:03 2 key, it would have gone all the way.

10:50:05 3 **Q** And that would have caused it to open and spill the
10:50:09 4 super hot contents all over?

10:50:10 5 **A** I'd probably still be in the hospital.

10:50:13 6 MR. COLEMAN: Dawn, can we pull the video clip
10:50:16 7 of the testing done at SEA? We hope. Because this was the
10:50:23 8 joint testing done by Mr. Mattice and Mr. Pratt --
10:50:30 9 Dr. Pratt.

10:50:37 10 And if we cannot get it, we will talk about it just a
10:50:42 11 little further and just explain to the jury what was done.

10:50:55 12 BY MR. COLEMAN:

10:50:56 13 **Q** Okay. Chapman SEA inspection. Here we go.

10:50:59 14 Now, Dr. Pratt, stand back here with me so you can
10:51:04 15 explain to the jury what we're seeing.

10:51:06 16 (Video clip played.)

10:51:06 17 **A** Yes, that's the Chapman unit. We've got the pressure
10:51:10 18 gauge on it. This is the same kind of pressure gauge used
10:51:13 19 by the manufacturer. And there I'm turning it. You see it
10:51:19 20 going back and forth up to the stop key.

10:51:22 21 And so I'll be able to rotate that lid at a pressure
10:51:26 22 of I think this was 3.8 pounds per square inch, almost 4
10:51:32 23 pounds per square inch.

10:51:34 24 **Q** Can you give us an idea -- so, for example, 2.5 psi,
10:51:38 25 what can that do to a 2-pound lid if it were to blow off?

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10:51:45 1 What's the equivalent? How does that --

10:51:45 2 **A** Well, this is almost 4 psi. So this is closer to
10:51:49 3 about 250 pounds of force. So if that lid came off, it's
10:51:53 4 like all of a sudden it weighs 250 pounds in the up
10:51:56 5 direction. It's going to blow out of my hands, break my
10:51:59 6 wrists, and expel some pretty hot contents.

10:52:03 7 **Q** And what's the point of doing this type of testing
10:52:06 8 with respect to the psi? I mean, what does this help us
10:52:09 9 determine? Does it help us determine that you, yes, in
10:52:15 10 spite of what Tristar says, you can take the lid off under
10:52:18 11 pressure?

10:52:19 12 MR. LEWIS: Objection. Leading.

10:52:20 13 THE COURT: Overruled.

10:52:22 14 BY MR. COLEMAN:

10:52:22 15 **Q** You can answer.

10:52:23 16 **A** Well, the whole idea is we want to see if we can
10:52:26 17 rotate the lid under pressure. We don't have a convenient
10:52:30 18 way to measure how much force we're putting on the periphery
10:52:34 19 of the lid, you know, the torque. It's hard to get a load
10:52:37 20 cell in there when you need that space for your hands. But
10:52:40 21 we can measure the pressure. So using the gauge, again,
10:52:44 22 just like the manufacturer uses and just like Tristar used
10:52:46 23 for certification, we can get an idea of what pressure that
10:52:50 24 thing is able to rotate.

10:52:52 25 If we couldn't rotate it until the pressure was nearly

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10:52:56 1 zero, like .001 psi, big deal. Might get a little pop. So
10:53:01 2 what. But we know that when this thing is up above 2, 3,
10:53:07 3 4 psi, it's exceedingly dangerous. I mean, even at 2 1/2
10:53:11 4 psi, this lid is going to be expelled at, like, 50 feet a
10:53:18 5 second. And at 4 psi, I've got video on a similar type
10:53:22 6 unit. At 4 psi, I don't know if we're going to show it
10:53:25 7 today or not, but it makes a heck of a burn, a blast. The
10:53:30 8 lid, I had it in the cage, would have blown up at least 10
10:53:35 9 or 15 feet. And there was water -- steam and hot water all
10:53:42 10 over my garage when I ran this test.

10:53:47 11 So 4 psi is exceedingly dangerous, and I think even 2
10:53:52 12 1/2 or 2 psi is exceedingly dangerous.

10:53:55 13 **Q** All right. Let's go to the next clip of testing just
10:53:59 14 so the jury sees all three of these units that were tested
10:54:04 15 jointly at SEA. And it may take just a moment.

10:54:10 16 **MR. COLEMAN:** The next PowerPoint video.

10:54:10 17 (Video clip played.)

10:54:13 18 **Q** Okay. This is the Jackson, ladies and gentlemen, you
10:54:16 19 see up in the left-hand corner.

10:54:18 20 And what do we have here? Is that Mr. Mattice?

10:54:20 21 **A** That's Mr. Mattice. And Jackson is the bigger unit,
10:54:23 22 the 8-quart unit.

10:54:26 23 **Q** And he's rotating at what psi?

10:54:29 24 **A** Well, he was able to rotate it at almost 4 1/2 psi.

10:54:35 25 **Q** And, again, 4 1/2 psi versus 0 to 0.1 psi, that means

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10:54:45 1 there's no pressure in the unit, right?

10:54:46 2 **A** Right.

10:54:48 3 **Q** Okay. Let's go to the next clip, because I want the
10:54:52 4 jury to see the readings from all three pressure cookers.

10:54:55 5 So we've looked at Chapman. That was over 3.5 psi.

10:55:01 6 We've looked at Jackson, which was over 4 psi. And then now
10:55:06 7 we've got Vennel.

10:55:06 8 (Video clip played.)

10:55:10 9 **Q** Can you see in the top left-hand corner?

10:55:12 10 **A** When you watch these videos, you'll notice that the
10:55:15 11 hands are out here to try to turn it. That seems like a
10:55:21 12 natural place to put it. I mean, you can go this way. If
10:55:26 13 it's hard to turn, I think one is naturally going to go to
10:55:29 14 the outer periphery.

10:55:31 15 And if you notice the base unit handles are
10:55:36 16 conveniently in line with this handle. So you can kind of
10:55:39 17 leverage that lid bearing force against the base unit
10:55:46 18 handles and not have to worry about this thing twisting on
10:55:49 19 the tabletop.

10:55:50 20 **Q** Now, is it your understanding that with respect to the
10:55:52 21 measurements you listed in your report and the amount of psi
10:55:56 22 that was in the units, Mr. Mattice agreed with those
10:56:00 23 measurements, correct?

10:56:01 24 **A** Yes.

10:56:02 25 **Q** All right. Can you go back up to the witness stand,

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10:56:05 1 Dr. Pratt.

10:56:13 2 Now, during the testing that went on at SEA with you
10:56:18 3 and Mr. Mattice, did you ask him if he wanted to go ahead
10:56:20 4 and remove the stop key device and let the lid be able to be
10:56:26 5 rotated to fully off?

10:56:27 6 **A** Yes. Well, firstly, you know, I did the test on the
10:56:32 7 Chapman unit, showed him how it was done. He tested the
10:56:36 8 Vennel and the Jackson units himself, and he asked to use
10:56:40 9 the stop key device in both cases.

10:56:44 10 And I think it was on the Jackson unit when he had
10:56:46 11 rotated it with using two hands on the handle to the stop
10:56:52 12 key, I asked him if he would care to remove the stop key and
10:56:56 13 take it the rest of the way. And he just shook his head,
10:57:00 14 smiled and shook his head. It was wise.

10:57:09 15 **Q** All right. So, you know, again, this is -- we've got
10:57:10 16 to help ourselves, the Court, and the jury understand what
10:57:13 17 all of this means.

10:57:14 18 What is your understanding about Tristar's
10:57:17 19 representations with respect to whether there's any pressure
10:57:20 20 in the unit when the lid can be opened? What's your
10:57:23 21 understanding of that?

10:57:24 22 **A** Well, my understanding from the representations, the
10:57:27 23 videos, and the owner's manuals, that if there's any
10:57:32 24 pressure in the unit, it should not be -- it cannot be
10:57:34 25 opened.

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10:57:38 1 **Q** And is that statement of Tristar consistent with the
10:57:40 2 testing that you and Mr. Mattice did?

10:57:43 3 **A** No, it's not.

10:57:44 4 **Q** And why is that?

10:57:45 5 **A** Well, because you can -- the safety feature doesn't
10:57:50 6 work. You can easily override it.

10:57:54 7 **Q** Now --

10:57:55 8 **A** And by safety feature, I mean this locking pin.

10:57:59 9 **Q** And we saw it at the very end there, but for example,
10:58:05 10 for the Jackson unit, when Mr. Mattice was testing the unit
10:58:10 11 itself, was he able to move the lid with one hand on the top
10:58:16 12 of the lid?

10:58:17 13 **A** Yes. At a lower pressure, yes.

10:58:21 14 **Q** I think it -- does 3.24 psi sound accurate?

10:58:26 15 **A** It does, yes.

10:58:27 16 **Q** Okay. So with respect to all three units -- let me
10:58:33 17 make sure that the Court and jury understands, all three
10:58:37 18 units, is the design common for all three -- for all three
10:58:42 19 class members and for all of the members of the class?

10:58:44 20 **A** It is.

10:58:46 21 **Q** Is the design defect with respect to the locking lid
10:58:51 22 device, is it common to all of the units of the class reps
10:58:57 23 and all the class members that purchased these units within
10:59:01 24 the three states Colorado, Pennsylvania, and Ohio?

10:59:04 25 **A** It is.

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10:59:07 1 **Q** Doctor, I'm going to ask you, those opinions that
10:59:11 2 you've just given the Court and jury about the defect and
10:59:15 3 that it was common to these units, was that opinion given
10:59:20 4 within a reasonable degree of professional and scientific
10:59:23 5 certainty?

10:59:24 6 **A** Absolutely.

10:59:26 7 **Q** Now, with respect to other things that you might be
10:59:35 8 asked about, both by me and by Mr. Lewis, is there a way to
10:59:43 9 make a fix for this?

10:59:46 10 Is there something you can do that Tristar knew or
10:59:49 11 should have known about that would have made this lid device
10:59:52 12 safer at the time they started selling them to the public?

10:59:55 13 **A** Yeah. There's at least one. I mean, I'm not in the
10:59:59 14 pressure cooker design business, but I was able to come up
11:00:02 15 with a fix that I had a prototype and it worked great.

11:00:06 16 **Q** What was that? Explain it to the Court and jury.

11:00:09 17 **A** Well, as I mentioned when I was down on the floor, the
11:00:13 18 inner part of that locking pin rides along the locking lugs
11:00:16 19 on the base unit, almost like a cam surface, in and out.
11:00:22 20 And those lugs conveniently have little 45-degree ramps on
11:00:27 21 each side.

11:00:28 22 **MR. COLEMAN:** Can I approach, Your Honor?

11:00:33 23 **A** So these locking lugs, as you can see, have nice
11:00:36 24 little ramps so that this locking pin can easily ride up,
11:00:42 25 along, down, up, along, and down. Right?

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11:00:47 1 So what I did on the prototype -- I don't know if we
11:00:52 2 have it here -- but instead of a 45-degree angle, I had my
11:00:56 3 machinist just cut that to a 90-degree angle, a square above
11:01:01 4 it, so when this pin came up in contact with it, it would
11:01:06 5 just stop. Put the lid on, it rides up the ramp, comes
11:01:09 6 down, falls down. And when you try to go back the other
11:01:14 7 way, it just buddied up against the square shoulder.
11:01:17 8 There's no way you can open it.

11:01:21 9 In order to open it, you've got to pull this pin out.
11:01:23 10 So the pin on the unit was actually a little bit too short,
11:01:27 11 so we just put a plastic knob on the end. Now you can grab
11:01:31 12 it with your fingers.

11:01:33 13 So it had a couple of advantages. One is, the unit,
11:01:35 14 if you stuck a broom handle in here, you couldn't force the
11:01:39 15 thing open without breaking something physically. And
11:01:42 16 besides that, you still had to pull this out. If you had to
11:01:44 17 pull this pin out, use one hand to pull this pin out, you
11:01:48 18 can't be using two hands to try to open this thing up under
11:01:52 19 pressure. So it seemed to do the trick.

11:01:56 20 **Q** And is that the kind of thing that would have been
11:02:00 21 able to Tristar design engineers or anyone else at the time
11:02:02 22 these things were manufactured and then later purchased?

11:02:05 23 **A** Oh, yeah. It's real simple. I mean, in terms of, if
11:02:10 24 anything, it might add a couple of pennies to the cost for
11:02:14 25 the plastic knob, but it's real simple mechanical concepts.

Pratt (Direct)

11:02:21 1 There's nothing magic there.

11:02:23 2 **Q** And would it have made it safer than these units that
11:02:27 3 we have before us?

11:02:28 4 **A** Oh, absolutely, yes.

11:02:35 5 **Q** Now, I want to move for a minute to some other
11:02:46 6 questions about value.

11:02:53 7 You heard Mr. Lewis say in his opening statement,
11:03:01 8 well, this thing is a slow cooker, this thing can brown and
11:03:06 9 other things that he may have said that everybody can check
11:03:09 10 their memory on.

11:03:10 11 What is your understanding of the purpose of these
11:03:12 12 units?

11:03:12 13 **A** Well, the primary purpose is to shorten the cooking
11:03:17 14 time by being able to cook under pressure.

11:03:20 15 **Q** Right.

11:03:20 16 I mean, have you seen the advertisements on the boxes
11:03:23 17 and all over the lids that, you know, these things are the
11:03:30 18 power cooker, the Power Pressure Cooker XL? I mean, that's
11:03:33 19 how it's sold and marketed, right?

11:03:35 20 **A** Yes.

11:03:44 21 **Q** I want to ask you a few questions within a reasonable
11:03:48 22 degree of engineering certainty, because we've talked a
11:03:52 23 little bit about it before. But I want to make sure that
11:03:56 24 the jury understands what your opinions are in the case so
11:04:00 25 that they can consider it when they're deliberating.

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11:04:05 1 Based upon your review of the Tristar owner's manual
11:04:09 2 that you've talked about, based upon your own testing and
11:04:13 3 the testing done with Mr. Mattice at SEA, and based upon
11:04:18 4 everything that you've reviewed in the case, I'm going to
11:04:21 5 ask you some opinions within a reasonable degree of
11:04:24 6 professional engineering certainty.

11:04:27 7 Can we agree to that, sir?

11:04:29 8 **A** Okay.

11:04:30 9 **Q** All right. In your opinion, are the Power Pressure
11:04:34 10 Cooker XLs, as they were designed, manufactured, and sold to
11:04:37 11 these three classes, are they unreasonably dangerous and
11:04:42 12 defective?

11:04:42 13 **A** They are.

11:04:43 14 **Q** Can you tell the Court and jury why?

11:04:46 15 **A** Well, yeah. Because they can be opened under
11:04:50 16 pressure, under dangerously high pressure.

11:04:52 17 **Q** Like you demonstrated for the jury earlier?

11:04:56 18 **A** Correct.

11:04:58 19 **Q** Also, within that same standard of a reasonable degree
11:05:01 20 of professional and engineering certainty, what can
11:05:03 21 happen -- and we can't get into injuries per se, but what
11:05:07 22 happens when the user is able to remove the lid while the
11:05:13 23 units are under pressure?

11:05:14 24 MR. LEWIS: Objection, Your Honor. That's
11:05:16 25 speculation. He's never done the test.

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11:05:18 1 THE COURT: Overruled.

11:05:20 2 **A** Yeah. Well, I had done testing with these types of
11:05:24 3 units and the XL, that exemplar XL that I have, at low
11:05:30 4 pressures. And I know that the contents can spew out. I
11:05:34 5 know that there's a danger, especially at the higher
11:05:37 6 pressures, of wrist injury, either spraining the wrists or
11:05:42 7 breaking them.

11:05:43 8 I purchased protective equipment at my own cost so
11:05:48 9 that I could run tests under pressure for the XLs and for
11:05:52 10 some other models. But based on some low pressure testing,
11:05:58 11 I'm afraid to use it. Because while the protective
11:06:02 12 equipment I'm sure is going to protect me from steam and
11:06:05 13 burns, I'm afraid I'm going to snap my wrist. When I saw
11:06:08 14 that one pop off at 4 psi, you know, it forever cured me of
11:06:14 15 any aspirations to open one of these things by hand under
11:06:20 16 that high a pressure.

11:06:21 17 **Q** And so far as the user is concerned, and based upon
11:06:25 18 your testing and your review of the materials, what happens
11:06:27 19 to the fluid and the contents inside the units if you're
11:06:30 20 able to open the lid under pressure?

11:06:33 21 **A** Well, it comes out. I mean, the testing that I'd done
11:06:37 22 under pressure with, say, two cups of quarter on a 30-inch
11:06:42 23 counter height, it will go to a 9-foot ceiling easily. If
11:06:48 24 it were filled all the way up to full capacity, you know, it
11:06:54 25 would make an even bigger mess.

Pratt (Direct)

11:06:57 1 **Q** Are these power pressure cooker units defective and
11:07:01 2 unreasonably dangerous at the point of sale?

11:07:04 3 **A** Yes. They're defective when they leave the factory,
11:07:13 4 absolutely.

11:07:14 5 **Q** Now, with respect to these power pressure cookers, are
11:07:22 6 they unfit for use or for their intended purpose as a power
11:07:30 7 pressure cooker because of the defect?

11:07:33 8 **A** Yes, they are, because the defect makes them unsafe.

11:07:36 9 **Q** Now, Doctor, that's a good segue into the next
11:07:42 10 exhibit.

11:07:43 11 MR. COLEMAN: Dawn, let's get up those ethics
11:07:46 12 and canons, please, for engineers.

11:07:55 13 **Q** Doctor, is there a group that you and Mr. Mattice, at
11:07:58 14 least according to his resumé, are a member of with respect
11:08:01 15 to a society of engineers?

11:08:02 16 **A** Yes. We're both licensed professional engineers in
11:08:05 17 our respective states. I think Mr. Mattice is licensed in
11:08:10 18 several states. I'm licensed in California. Both as
11:08:14 19 mechanical engineers. And we both belong, to the best of my
11:08:19 20 knowledge, to the National Society of Professional
11:08:23 21 Engineers.

11:08:23 22 **Q** And are you familiar with the code of ethics and the
11:08:27 23 canons of that particular society?

11:08:32 24 **A** Yes. I couldn't recite it here offhand, but, yes, I'm
11:08:35 25 familiar with it.

Pratt (Direct)

11:08:35 1 **Q** The great thing is it's right in front of you there if
11:08:40 2 you look at the screen.

11:08:40 3 **A** Actually, my screen doesn't work.

11:08:43 4 **Q** Oh, okay.

11:08:43 5 MR. COLEMAN: Any way to help us there?

11:08:52 6 THE COURT: Your screens are on, aren't they?

11:08:52 7 MR. COLEMAN: Yes. Your Honor, if that
11:08:53 8 doesn't work, can he just come down here with me?

11:08:56 9 THE COURT: Did you try turning the button
11:09:00 10 that says "on"?

11:09:02 11 THE WITNESS: Is there a button? Oh, yes.

11:09:07 12 **Q** We didn't say you're a software engineer.

11:09:11 13 **A** No, strictly mechanical.

11:09:14 14 **Q** That's okay, Doc. I'm right with you. That's why I
11:09:18 15 have an army of folks to help me not screw up so much.

11:09:22 16 All right. So, here's the Engineers' Creed. Is this
11:09:25 17 part of the document that we're going to make as an exhibit
11:09:29 18 to this case, Doctor?

11:09:30 19 **A** Yes. This is the Engineers' Creed for the National
11:09:36 20 Society of Professional Engineers.

11:09:38 21 **Q** And part of the creed, and if you would, you pledged
11:09:41 22 to do a number of things, but to place service before
11:09:43 23 profit, the honor and standing of the profession before
11:09:46 24 personal advantage, and the public welfare above all other
11:09:50 25 considerations.

Pratt (Direct)

11:09:52 1 Is that something that as members of this society, you
11:09:54 2 and Mr. Mattice are supposed to hold to?

11:09:56 3 **A** That's right. I mean, not only as members of the
11:09:58 4 society, but they -- you know, they beat this in your head
11:10:01 5 all during engineering school.

11:10:03 6 **Q** All right. I'm going to show you another page from
11:10:05 7 that booklet or code of ethics.

11:10:12 8 Here, you see at the top left-hand corner, it says
11:10:16 9 National Society of Professional Engineers, Code of Ethics
11:10:19 10 for Engineers. In the preamble, can you just look there
11:10:23 11 with me. I'll read it and ask you some questions about it.

11:10:26 12 It says: Accordingly, the services provided by
11:10:30 13 engineers require honesty, impartiality, fairness and
11:10:35 14 equity, and must be dedicated to the protection of the
11:10:38 15 public health, safety and welfare.

11:10:41 16 Do you agree with that statement, Doctor?

11:10:43 17 **A** Absolutely, yes.

11:10:44 18 **Q** Is that part of -- not the only part, but is that part
11:10:46 19 of the basis of your opinion as to why these things are
11:10:49 20 unsafe, to protect the public welfare?

11:10:51 21 **A** Well, yeah, they're not protecting the public welfare
11:10:56 22 if they can be opened under pressure. They're unsafe.

11:10:56 23 **Q** And that's -- one of the reasons you're giving your
11:10:58 24 opinions in this case is to make sure that these kinds of
11:11:02 25 defective, unsafe products are known so that things can be

Pratt (Direct)

11:11:05 1 done about it?

11:11:05 2 **A** Yes.

11:11:07 3 **Q** Now, let's look at another part underneath the
11:11:13 4 preamble. It will come up shortly.

11:11:19 5 It's under the Fundamental Canon section. And it
11:11:25 6 says, I believe, right there: Engineers, in the
11:11:32 7 fulfillment -- this is under the Canons -- of their
11:11:34 8 professional duties shall, not might, not kind of, shall
11:11:39 9 hold paramount the safety, health, and welfare of the
11:11:43 10 public.

11:11:44 11 Is that accurate, sir?

11:11:45 12 **A** It is.

11:11:45 13 **Q** And is that something you strive to do?

11:11:48 14 **A** It is.

11:11:50 15 **Q** Now, I want to talk about another issue that Mr. Lewis
11:11:56 16 brought up, and that's the value of these units, even
11:12:00 17 if -- even if it is defective as a pressure cooker, it's got
11:12:04 18 other value. And I want to ask you a few questions about
11:12:06 19 that.

11:12:07 20 Since the defect, as you've talked about earlier, is
11:12:20 21 unknown to the consumers when they purchase it, does it
11:12:26 22 matter, from your perspective as an engineer bound by those
11:12:31 23 ethics, that some folks who might have been able to use it
11:12:35 24 safely a couple of times before the next time, like
11:12:39 25 Ms. Vennel, Mr. Jackson, and Mr. Chapman, the unit exploded?

Pratt (Direct)

11:12:45 1 **A** No, it doesn't matter. I mean, it's unsafe from the
11:12:47 2 day it leaves the factory. It's like a ticking time bomb or
11:12:51 3 a Russian roulette. It may not erupt the first or the
11:12:55 4 second or the fourth time, but it can at any time.

11:12:58 5 **Q** All right. And that's a pretty high price to pay for
11:13:04 6 a 100 to \$160 product, isn't it, sir?

11:13:08 7 **A** Yes.

11:13:08 8 **Q** I mean, so far as it erupting all over you, causing
11:13:12 9 burns and other things to occur, right?

11:13:14 10 **A** Knowing that that can happen, you know, I wouldn't
11:13:17 11 have one of those in my house, right.

11:13:20 12 **Q** Now, again, from a value standpoint, is the primary
11:13:25 13 purpose of these things, a pressure cooker as opposed to a
11:13:29 14 browner or a slow cooker, based upon your review of the
11:13:33 15 marketing materials and the pressure cooker unit itself?

11:13:36 16 **A** Pressure cooking and pressure canning.

11:13:45 17 **Q** And are those your opinions as well within a
11:13:48 18 reasonable degree of professional and scientific certainty?

11:13:51 19 **A** They are.

11:13:52 20 MR. COLEMAN: One moment, Your Honor. I'm
11:13:54 21 almost done.

11:14:01 22 Just some housecleaning, Your Honor. I think we'll
11:14:04 23 introduce them all at the end, but I just wanted to make
11:14:08 24 them exhibits for the Court, the pressure cookers --

11:14:12 25 THE COURT: I mean, you can reopen the case if

Pratt (Cross)

11:14:14 1 there's an admission issue.

11:14:15 2 MR. COLEMAN: Okay. All right. Your Honor,
11:14:17 3 just the Vennel, the Jackson, and the Chapman pressure
11:14:20 4 cookers into evidence along --

11:14:22 5 THE COURT: Well, once again, you move the
11:14:24 6 admission at the close of your case.

11:14:26 7 MR. COLEMAN: Okay. Will do, Your Honor.

11:14:28 8 THE COURT: Okay.

11:14:38 9 MR. COLEMAN: The plaintiff rests for this
11:14:40 10 witness.

11:14:44 11 THE COURT: Cross-examination.

11:14:46 12 MR. LEWIS: Thank you, Your Honor.

11:14:46 13 - - - - -

11:15:03 14 CROSS-EXAMINATION

11:15:03 15 BY MR. LEWIS:

11:15:05 16 **Q** Good morning, Dr. Pratt. How are you?

11:15:07 17 **A** Fine. Good morning.

11:15:08 18 **Q** We met today. My name is John Lewis. I represent
11:15:12 19 Tristar. You know that, right, sir?

11:15:13 20 **A** Yes, sir.

11:15:14 21 **Q** I have some questions for you today about your
11:15:17 22 testimony that you've given this morning. But I want to
11:15:21 23 start with -- before we switch, I want to start with this
11:15:28 24 number 5 here on code of ethics for engineers.

11:15:34 25 Engineers shall avoid deceptive acts. Right, sir?

Pratt (Cross)

11:15:39 1 **A** That's right.

11:15:40 2 **Q** Okay. You agree with that?

11:15:41 3 **A** I do.

11:15:42 4 **Q** Follow that?

11:15:42 5 **A** I do.

11:15:43 6 **Q** Okay. Finished with that.

11:15:46 7 MR. LEWIS: May we switch over to our side?

11:15:56 8 **Q** I notice, sir, what you didn't tell the jury in your
11:16:00 9 direct examination was that, in fact, you and Mr. Mattice
11:16:03 10 cooked hot water in all three of those without incident,
11:16:06 11 didn't you?

11:16:07 12 **A** Well, Mr. Mattice ran them through their normal cook
11:16:12 13 cycles, all the cook cycles, using two cups of hot water. I
11:16:17 14 didn't participate but I watched, yes.

11:16:20 15 **Q** You watched. And they worked as intended, correct?

11:16:23 16 **A** I beg your pardon.

11:16:24 17 **Q** They worked as intended, correct?

11:16:26 18 **A** Yes.

11:16:26 19 **Q** Okay. Now, how many people -- because I noticed you
11:16:32 20 picked the cooker up and you flipped it upside down.

11:16:38 21 How many people do you think cook using their cooker
11:16:41 22 upside down?

11:16:42 23 **A** Yeah. That wasn't intended to do that. I think that
11:16:45 24 would have been obvious to the jury as well as everybody
11:16:48 25 else in the courtroom.

Pratt (Cross)

11:16:49 1 **Q** Sure.

11:16:50 2 And my point is is that when you did the test on the
11:16:52 3 cooker turning it upside down, that's not how someone would
11:16:56 4 normally use the cooker. You agree with me on that?

11:16:59 5 **A** I didn't test the cooker upside down, sir.

11:17:02 6 **Q** Okay. When you turned the cooker upside down to raise
11:17:05 7 the float valve, you agree with me, that's not how normally
11:17:09 8 would use the cooker. Correct?

11:17:10 9 **A** And it wasn't intended to convey that impression at
11:17:13 10 all.

11:17:13 11 **Q** So you agree with me?

11:17:15 12 **A** I do.

11:17:15 13 **Q** All right. And as I understand it, you also used some
11:17:19 14 fondue sticks to play around with this float valve in your
11:17:22 15 testing; is that right?

11:17:22 16 **A** I used fondue sticks and plastic bowels and other
11:17:27 17 implements to pull that up to put it in position for various
11:17:31 18 testing protocols that I put it through.

11:17:33 19 **Q** Do you expect that consumers would take fondue sticks
11:17:37 20 or a bowel and stick it down into the float valve area to
11:17:41 21 pull it up when they're using it?

11:17:42 22 **A** Not unless they were trying to replicate my test
11:17:46 23 protocols.

11:17:46 24 **Q** Okay. They wouldn't use it if they were trying to
11:17:49 25 cook a meal?

Pratt (Cross)

11:17:50 1 **A** Oh, of course not.

11:17:52 2 **Q** All right. In fact, I guess let me ask you this:

11:17:57 3 When -- how many times did you cook a meal in one of these?

11:18:02 4 **A** I cooked a meal just one time as part of this case.

11:18:06 5 **Q** Right. You cooked a meal in the XL, right?

11:18:09 6 **A** Well, I have to think back or look at my notes. It

11:18:14 7 was either an XL or a WAL1.

11:18:16 8 **Q** Okay. Do you know for sure whether you cooked a meal

11:18:19 9 in the XL?

11:18:20 10 **A** As I sit here, I can't remember which one. It was

11:18:23 11 several months ago and it was a order of beans.

11:18:26 12 **Q** Did you eat it?

11:18:27 13 **A** No, I didn't like it. Beans need to be stirred

11:18:31 14 slowly, and this doesn't have a stirring mechanism in it.

11:18:34 15 **Q** Did you use the Power Pressure Cooker XL in its

11:18:38 16 canning feature? Did you test it for that?

11:18:41 17 **A** No, not for canning. I may have tested it on the

11:18:46 18 canning setting as part of my various pressure testing

11:18:52 19 protocols but not for canning.

11:18:53 20 **Q** Did you use it as a slow cooker?

11:18:56 21 **A** No.

11:18:56 22 **Q** Did you use it to saute anything as can be done?

11:19:02 23 **A** No.

11:19:02 24 **Q** Okay. You didn't test any of those features of this

11:19:07 25 XL, correct?

Pratt (Cross)

11:19:08 1 **A** Well, I tested other features, like keep warm and
11:19:12 2 tested it on various settings, like soups and stews and
11:19:17 3 played with changing the cook times and pressures. But the
11:19:21 4 only thing I actually cooked, other than water, was that one
11:19:25 5 bean recipe.

11:19:27 6 **Q** Okay. And those features worked well when you tested
11:19:30 7 the XL, right? It worked as intended, right?

11:19:33 8 **A** Yeah, the programming on the XL worked as intended,
11:19:37 9 yes.

11:19:37 10 **Q** And it worked safely when you used it with the slow
11:19:41 11 cooker, with the soup, with the sauteing, whatever you used
11:19:47 12 it for it worked safely. Correct?

11:19:49 13 **A** As long as I didn't try to remove the lid under
11:19:52 14 pressure, it worked safely.

11:19:53 15 **Q** It worked safely, right?

11:19:55 16 **A** Yes.

11:19:56 17 **Q** Okay. Now, I noticed when you were describing to the
11:20:00 18 jury the lid use, you were holding it up here. Do you
11:20:05 19 remember that? Or maybe you didn't even realize it. But
11:20:10 20 you grabbed the lid up here when you were describing these
11:20:14 21 three to the jury.

11:20:15 22 Do you recall that?

11:20:16 23 **A** Okay. No.

11:20:17 24 **Q** Any reason to disbelieve that was your natural
11:20:20 25 tendency?

Pratt (Cross)

11:20:20 1 **A** No, that's fine.

11:20:21 2 **Q** Okay. In the testing that the jury saw, you didn't
11:20:26 3 grab it up here, did you?

11:20:29 4 **A** Well, trying to open it, no, I used both hands.

11:20:34 5 **Q** And if I recall your -- I wrote this down. I wrote
11:20:37 6 this down. Because I think you said, correct me if I'm
11:20:42 7 wrong, when it gets hard to turn, someone would use two
11:20:51 8 hands.

11:20:53 9 Do you recall testifying to that?

11:20:55 10 **A** I believe so, yes.

11:20:56 11 **Q** You agree with that statement?

11:20:57 12 **A** I don't disagree.

11:21:00 13 **Q** Okay.

11:21:02 14 MR. LEWIS: Do you have the manual pages? In
11:21:08 15 particular, the one with the highlights that go through
11:21:12 16 that. No force it open. I think it's number 6.

11:21:16 17 BY MR. LEWIS:

11:21:22 18 **Q** When it gets hard to turn, you put two hands on it.
11:21:26 19 Right?

11:21:26 20 **A** Yes.

11:21:27 21 **Q** When it got hard to turn, you put two hands on it in
11:21:31 22 your testing. Right?

11:21:31 23 **A** Well, I think I started with two hands in the testing.

11:21:36 24 **Q** Right.

11:21:37 25 **A** I think my comment earlier to the jury was, if

Pratt (Cross)

11:21:40 1 something is hard to turn, the natural tendency is going to
11:21:45 2 be to go to the outer periphery.

11:21:47 3 **Q** Right. And that was your natural tendency, too, when
11:21:51 4 you were testing, correct?

11:21:52 5 **A** Yes.

11:21:52 6 **Q** Okay. And you see that? Were you able to keep your
11:21:55 7 monitor on? Is it still on in front of you, your monitor?
11:21:59 8 The computer.

11:21:59 9 **A** Oh, my monitor, yes.

11:22:01 10 **Q** Yeah. You got that in front of you?

11:22:03 11 By the way, did you read the manual before you started
11:22:07 12 operating this?

11:22:07 13 **A** Yes.

11:22:08 14 **Q** Cover to cover?

11:22:09 15 **A** Yes.

11:22:09 16 **Q** You would have seen these pages or this page in front
11:22:12 17 of you, correct?

11:22:13 18 **A** Yes.

11:22:14 19 **Q** All right. And did you read the statement that says:
11:22:27 20 Never force open the Power Pressure Cooker XL?

11:22:32 21 Did you read that?

11:22:33 22 **A** Yes.

11:22:33 23 **Q** Okay. You read it. Before you started putting two
11:22:36 24 hands on it during your testing, you had read that, correct?

11:22:40 25 **A** Yes.

Pratt (Cross)

11:22:40 1 **Q** Okay. And before Mr. Mattice started putting two
11:22:44 2 hands on it, you had read that, correct?

11:22:46 3 **A** That's correct.

11:22:47 4 **Q** Okay. All right. Let me ask you a few questions
11:22:56 5 about some other things that -- well, I want to know, I
11:23:04 6 guess, if you did this or not.

11:23:10 7 I guess your testimony is that this has a defect in it
11:23:13 8 as a -- I guess as a pressure cooker, right?

11:23:15 9 Is that -- have I summarized it correctly?

11:23:19 10 This has a defect in it, in your opinion?

11:23:22 11 **A** Yes.

11:23:22 12 **Q** Okay. You know there are other pressure cookers on
11:23:25 13 the market, correct?

11:23:26 14 **A** I do.

11:23:26 15 **Q** Okay. From other manufacturers, correct?

11:23:28 16 **A** Yes.

11:23:28 17 **Q** Okay. And so I imagine that what you did is you went
11:23:32 18 out from other manufacturers and you compared the designs
11:23:36 19 and safety features of pressure cookers from those other
11:23:39 20 manufacturers.

11:23:40 21 **A** I haven't evaluated other manufacturers, other than
11:23:44 22 I've observed some in the market. And I have a stovetop
11:23:50 23 case, a stovetop pressure cooker that I examined. But I
11:23:56 24 haven't examined other electric power cookers like this in
11:24:01 25 detail other than just what you see in the market.

Pratt (Cross)

11:24:03 1 **Q** So you can't tell us whether this might just be the
11:24:08 2 safest pressure cooker on the market or not. You haven't
11:24:12 3 done that comparison, correct?

11:24:14 4 **A** That's right.

11:24:15 5 **Q** Okay. Have you studied the quality assurance steps
11:24:20 6 that Tristar takes for each one of these pressure cookers?

11:24:24 7 **A** Yes.

11:24:24 8 **Q** Okay. And you understand the certifications and the
11:24:27 9 compliance? You sat in here while I outlined those.

11:24:30 10 You understand that there are certifications and
11:24:33 11 compliance with testing standards that were met with this
11:24:36 12 pressure cooker, right?

11:24:37 13 **A** I understand that I believe it was ETL or Intertek
11:24:42 14 that performed testing to the 1026 spec, UL1026.

11:24:47 15 **Q** And that's this label right here on the back of the
11:24:51 16 pressure cooker. You see that label? Can you see it from
11:24:54 17 here?

11:24:54 18 **A** I can see it from here, yeah.

11:24:55 19 **Q** You know it's there from your examination?

11:24:58 20 **A** I can read it, yes.

11:25:00 21 **Q** And you know that this pressure cooker met the testing
11:25:02 22 standards that are outlined on the back of that cooker,
11:25:04 23 right?

11:25:05 24 **A** What that says is that Intertek says it met -- it
11:25:09 25 complies with UL1026. That's all it tells me.

Pratt (Cross)

11:25:12 1 **Q** Right. And those are internationally recognized
11:25:17 2 testing standards, correct?

11:25:18 3 **A** Well, I know that Intertek did not do a lid locking
11:25:23 4 test on that unit.

11:25:24 5 **Q** That's not my question. Do you want me to repeat it?

11:25:27 6 **A** Sure.

11:25:28 7 **Q** My question was, you know that those testing standards
11:25:31 8 are international testing standards, correct?

11:25:34 9 **A** Well, the UL is a U.S. national standard.

11:25:39 10 **Q** Okay. UL is a United States testing standard, and it
11:25:43 11 passed the UL standard. Correct?

11:25:45 12 **A** Well, I didn't say it passed the UL standard. I said
11:25:50 13 Intertek claims it complies with UL1026. That's all that
11:25:56 14 sticker tells me.

11:25:56 15 **Q** Understood. Thank you.

11:25:58 16 Next subject. I would imagine that if you're going to
11:26:01 17 testify about whether there's a defect in this product, that
11:26:04 18 you went out and looked at customer reviews or how the 2
11:26:09 19 million other people who have used this product talk about
11:26:14 20 it.

11:26:16 21 **A** I guess I didn't understand the question.

11:26:18 22 **Q** Well --

11:26:20 23 THE COURT: He can't -- that's out-of-court
11:26:22 24 statements by somebody else, so go to something else.

11:26:25 25 MR. LEWIS: Okay.

Pratt (Cross)

11:26:36 1 THE COURT: What's the hearsay exception?

11:26:38 2 MR. LEWIS: Well, I wasn't asking him the
11:26:40 3 substance, Your Honor. I was just asking him if he had done
11:26:45 4 any of that work.

11:26:46 5 THE COURT: Go to something else.

11:26:49 6 BY MR. LEWIS:

11:26:49 7 **Q** I think you testified on direct that you didn't
11:26:52 8 conduct an accident reconstruction with the information that
11:26:58 9 you had from any of the three plaintiffs in this case; is
11:27:04 10 that correct?

11:27:04 11 **A** That's correct.

11:27:05 12 **Q** Okay. But as I understand it, you do have protective
11:27:14 13 equipment and a cage that you have for pressure cookers in
11:27:19 14 your facilities. Correct?

11:27:20 15 **A** That's right.

11:27:21 16 **Q** Okay. Did you review information about how the
11:27:26 17 plaintiffs describe the incidents that occurred?

11:27:30 18 **A** Yes.

11:27:31 19 **Q** You read their deposition testimony?

11:27:33 20 **A** I did.

11:27:33 21 **Q** Did you talk to them individually?

11:27:36 22 **A** I did not.

11:27:36 23 **Q** Okay. You only read deposition testimony?

11:27:40 24 **A** That's correct.

11:27:41 25 **Q** Okay. And if you did that, then you know that each of

Pratt (Cross)

11:27:45 1 the plaintiffs indicate that they followed all of the
11:27:49 2 instructions when they used the cooker, correct?

11:27:53 3 **A** Well, their testimony speaks for itself, yes.

11:27:58 4 **Q** But I'm going to ask you about --

11:27:59 5 THE COURT: Don't ask him to characterize what
11:28:01 6 the testimony was. You can ask them questions. But you're
11:28:07 7 asking him to say -- recall what somebody else's deposition
11:28:11 8 said.

11:28:13 9 BY MR. LEWIS:

11:28:13 10 **Q** I really want your understanding for purposes of a
11:28:17 11 question that I want to ask you about the incident.

11:28:19 12 THE COURT: Well, how could he -- he didn't
11:28:21 13 have personal knowledge of the incidents. So if you want to
11:28:23 14 ask the plaintiffs themselves questions about the incidents,
11:28:26 15 you can. But don't ask him to -- what happened in the
11:28:30 16 incidents. And I don't understand his opinion on the
11:28:33 17 incidents -- or his understanding of the incidents. I don't
11:28:38 18 see the connection.

11:28:41 19 MR. LEWIS: Okay.

11:28:41 20 BY MR. LEWIS:

11:28:42 21 **Q** Well, let me ask you this: In your testing that you
11:28:44 22 did, you did on occasion -- you ran a cycle with hot water
11:28:52 23 and pressure inside the very devices used by the plaintiffs,
11:28:59 24 right?

11:28:59 25 **A** That's right.

Pratt (Cross)

11:29:00 1 **Q** Okay. And when you were done with that cycle, you
11:29:03 2 released the pressure from inside the cooker, correct?

11:29:05 3 **A** Are you talking about the SEA testing?

11:29:08 4 **Q** The testing of those devices, yes.

11:29:11 5 One of the tests that you did was to run through a
11:29:17 6 cycle with hot water, pressurized, and then to release the
11:29:22 7 pressure at the end of the cook cycle. Correct?

11:29:24 8 **A** I'd like to clarify. I didn't do that testing.
11:29:28 9 Mr. Mattice did.

11:29:28 10 **Q** You observed it?

11:29:29 11 **A** That's correct.

11:29:30 12 **Q** Okay. You were present, you observed it?

11:29:33 13 **A** I watched him run the test, yes.

11:29:35 14 **Q** Okay. And you saw that the cook cycle was run and the
11:29:40 15 pressure was -- and by the way, this was an agreed test with
11:29:43 16 you and Mr. Mattice on a particular day. It was January of
11:29:46 17 this year where you guys got together and sort of figured
11:29:51 18 out, okay, we're going to run this series of tests. Right?

11:29:54 19 **A** No. Mr. Mattice had his own test protocol. The first
11:29:59 20 time I saw it was when he started running the test.

11:30:03 21 **Q** So you had some tests that you wanted to run while he
11:30:05 22 observed. He had some tests that he was going to run while
11:30:09 23 you observed. Correct?

11:30:11 24 **A** That's correct.

11:30:11 25 **Q** Okay. And so one of the tests that was run that day

Pratt (Cross)

11:30:14 1 that you observed was the cooker being tested under normal
11:30:17 2 cook cycle with hot water, and at the end of that cook cycle
11:30:22 3 the pressure was released from the cooker. Correct?

11:30:25 4 **A** That's correct.

11:30:26 5 **Q** And all of the pressure came out of the very cookers
11:30:29 6 right here, right?

11:30:30 7 **A** Right.

11:30:30 8 **Q** And then the lid was opened, correct?

11:30:32 9 **A** That's correct.

11:30:32 10 **Q** It was opened easily, correct?

11:30:35 11 **A** Well, it opens. You could have opened it with one
11:30:38 12 finger. It opened as easily as it closed.

11:30:42 13 **Q** And it did not explode, correct?

11:30:45 14 **A** That's correct.

11:30:51 15 **Q** Any test that you have done on the XL, has any test
11:30:55 16 that you've done on the XL shown that if the pressure is
11:31:01 17 released from the cooker, as instructed, that the lid will
11:31:09 18 blow off?

11:31:09 19 **A** No. I mean, it's obvious that if all the pressure is,
11:31:12 20 in fact, released, not just seemingly released but in fact
11:31:17 21 released, then the lid should not blow off.

11:31:20 22 **Q** And it can't because there's no pressure inside the
11:31:22 23 cooker, correct?

11:31:23 24 **A** That's correct.

11:31:24 25 **Q** It's fundamental physics, correct?

Pratt (Cross)

11:31:26 1 **A** That's right.

11:31:28 2 **Q** If the pressure is outside of this cooker, it's no
11:31:30 3 longer a cooker, it's a pot of hot water. Correct?

11:31:34 4 **A** That's correct.

11:31:47 5 **Q** When you did your tests at SEA or otherwise, one of
11:31:55 6 the things that you did was you removed this pressure gauge,
11:32:00 7 correct?

11:32:00 8 **A** That's not a gauge. It's actually a manual release
11:32:06 9 valve.

11:32:06 10 **Q** Pressure manual release valve.

11:32:09 11 You removed it?

11:32:10 12 **A** We removed it.

11:32:11 13 **Q** And you put a gauge in there instead, correct?

11:32:14 14 **A** Yeah, just to replicate the way the manufacturer does
11:32:17 15 it.

11:32:17 16 **Q** That's one way that you modified the device during
11:32:21 17 your testing, correct?

11:32:21 18 **A** That's correct.

11:32:22 19 **Q** Another way that you modified the device during your
11:32:23 20 testing was you artificially lifted the float valve during
11:32:27 21 some of your tests, correct?

11:32:29 22 **A** Not during the SEA test.

11:32:30 23 **Q** During some of your examination of the cookers, you
11:32:33 24 artificially lifted the float valve?

11:32:36 25 **A** Yes, for my in-home test, that's right.

Pratt (Cross)

11:32:36 1 Q Correct.

11:32:39 2 A That was for the non-pressure version of the test.

11:32:41 3 Q I understand.

11:32:42 4 You also for one of your tests, you used that little
11:32:46 5 clip that you showed the jury, correct?

11:32:48 6 A Yes.

11:32:49 7 Q Okay. That was a modification. You put that inside
11:32:52 8 of the lid, correct?

11:32:53 9 A Well, not on the inside. It's between the lid and
11:32:57 10 base on the outside.

11:32:58 11 Q Correct. Okay.

11:33:04 12 That's not called for in the instruction manual
11:33:16 13 anywhere, is it?

11:33:07 14 A No, you wouldn't use a cooker that way. You would
11:33:11 15 only test it that way.

11:33:13 16 Q Okay. The last kind of concept here.

11:33:30 17 In any of the materials that you saw related to the
11:33:36 18 XL, whether -- I guess, did you watch some videos? You made
11:33:40 19 some statements about representations and warranties.

11:33:43 20 Did you watch some videos?

11:33:45 21 A Yes.

11:33:45 22 Q Okay. Did you look at the written materials that come
11:33:48 23 with the product, including the instruction guide?

11:33:51 24 A I have, yes.

11:33:52 25 Q Okay. Video from Eric Theiss, the chef, did you watch

Pratt (Redirect)

11:34:00 1 that video?

11:34:00 2 **A** Yes.

11:34:01 3 **Q** Okay. Could you cite me to anyplace where they open
11:34:09 4 the cooker with force and two hands on the outside?

11:34:13 5 **A** No, I haven't seen that.

11:34:17 6 MR. LEWIS: Pass the witness, Your Honor.

11:34:20 7 MR. COLEMAN: Just brief redirect, Your Honor.

11:34:23 8 - - - - -

11:34:23 9 REDIRECT EXAMINATION

11:34:23 10 BY MR. COLEMAN:

11:34:25 11 **Q** Dr. Pratt, you were asked a question by Mr. Lewis,
11:34:27 12 when you and Mr. Mattice tested the units and brought the
11:34:31 13 units up to pressure, if it was working as intended. And
11:34:35 14 you said, yes.

11:34:36 15 Is that -- do you remember that question and answer,
11:34:38 16 sir?

11:34:39 17 **A** Yeah. Well, actually, there were two phases to the
11:34:42 18 test. When we were doing the lid rotation test, they came
11:34:46 19 up to pressure as like they're supposed to. We cut the
11:34:49 20 pressure off, let it drop until we could rotate the lids.

11:34:53 21 But then there was another protocol that Mr. Mattice
11:34:55 22 had put together where he ran them through their cycles
11:34:58 23 without the pressure gauges or without the analog pressure
11:35:02 24 gauges. That was different. They functioned as they were
11:35:04 25 expected to function in that test.

Pratt (Redirect)

11:35:07 1 **Q** Yes. But with respect to the testing you and
11:35:12 2 Mr. Mattice did to determine if the lids could be opened
11:35:15 3 while there was pressure still in the unit, is that what
11:35:17 4 actually occurred? You could open the unit -- or you could
11:35:22 5 open the lid while there was still pressure in the unit?

11:35:25 6 **A** That's right.

11:35:26 7 **Q** And is that supposed to happen?

11:35:28 8 **A** No, it's not supposed to happen. I mean, the owner's
11:35:32 9 manuals say it's not supposed to happen. The videos say
11:35:35 10 it's not supposed to happen.

11:35:36 11 **Q** In fact, we talked about this. You heard in my
11:35:43 12 opening statement, Mr. Cruz -- we couldn't get his video up
11:35:47 13 and running then, but Mr. Cruz says, all these features are
11:35:52 14 designed to make sure that whether human error or mechanical
11:35:57 15 malfunction occur, using the power pressure cooker is always
11:36:02 16 safe.

11:36:02 17 Do you remember seeing that video of Mr. Cruz?

11:36:05 18 **A** Yes, I do.

11:36:06 19 **Q** So their whole argument, as you've heard from
11:36:11 20 Mr. Lewis and other lawyers on the defendant side, is that,
11:36:13 21 well, these plaintiffs must have used force to open these
11:36:18 22 lids under pressure.

11:36:19 23 Do you understand that to be the defense?

11:36:21 24 **A** I do.

11:36:21 25 **Q** But even if there was human error by forcing the unit,

Pratt (Redirect)

11:36:28 1 according to Mr. Cruz, is it your understanding from that
11:36:31 2 material that the power pressure cooker is always supposed
11:36:36 3 to be safe anyway?

11:36:38 4 **A** Yes, it is. Yes. That's my understanding.

11:36:41 5 **Q** All right. Well, let's play that now. I think we
11:36:45 6 finally after some trial and error --

11:36:47 7 MR. LEWIS: Objection, Your Honor.

11:36:48 8 MR. COLEMAN: Stop it.

11:36:50 9 MR. LEWIS: This wasn't the subject --

11:36:51 10 THE COURT: You can use it to cross-examine
11:36:53 11 the witness, but you can't use it now.

11:36:57 12 MR. COLEMAN: Okay. Will do, Your Honor.

11:36:59 13 THE COURT: Do you have any other questions?

11:37:02 14 MR. COLEMAN: Let me just check with counsel
11:37:04 15 here.

11:37:11 16 I don't think so, Your Honor. Thank you.

11:37:13 17 THE COURT: Okay. Thank you.

11:37:15 18 Would the plaintiff call your next witness.

11:37:21 19 MR. EDWARDS: Your Honor, our next witness on
11:37:23 20 the list is the videoconference witness. So may we have
11:37:27 21 just a minute to set that up?

11:38:05 22 THE COURT: Ladies and gentlemen, you're going
11:38:05 23 to observe testimony given by way of videoconference.

11:38:11 24 You're to receive and consider that testimony the same as if
11:38:15 25 the witness were here live.

Vennel (Direct)

11:38:21 1 And I'd guess if you'd raise your right hand.

11:38:26 2 (Witness sworn.)

11:38:34 3 THE COURT: And tell us your name and tell us
11:38:36 4 how you spell your last name.

11:38:37 5 THE WITNESS: My name is Jessica Ruth Vennel.
11:38:41 6 V, as in Victor, E-N-N-E-L.

11:38:51 7 THE COURT: And are you one of the plaintiffs
11:38:53 8 in this case?

11:38:54 9 THE WITNESS: I am.

11:38:56 10 MR. EDWARDS: Thank you, Your Honor.

11:38:56 11 JESSICA R. VENNEL

11:38:30 12 - - - - -

11:38:30 13 DIRECT EXAMINATION

11:38:30 14 BY MR. EDWARDS:

11:38:59 15 **Q** Ms. Vennel, can you hear me okay?

11:39:01 16 **A** I can.

11:39:02 17 **Q** I'll admit I'm a little nervous about taking testimony
11:39:07 18 from somebody over the videoconference. But if you can't
11:39:08 19 hear me, just let me know and we'll get it figured out. All
11:39:12 20 right?

11:39:12 21 **A** Okay.

11:39:13 22 **Q** Before I start asking you questions, Ms. Vennel, would
11:39:17 23 you just tell the Court and jury why you're unable to be in
11:39:21 24 the courtroom today, please.

11:39:22 25 **A** Yes. On June 28th I had abdominal surgery to repair

Vennel (Direct)

11:39:27 1 pelvic organ prolapse, so my surgeon and my PCP felt it best
11:39:33 2 that I do not travel for the trial.

11:39:35 3 **Q** Okay. Would you like to be here today in person?

11:39:37 4 **A** I would.

11:39:42 5 **Q** All right. Go ahead and state your full address for
11:39:44 6 me, if you would, Ms. Vennel.

11:39:46 7 **A** 229 Munson Avenue, McKees Rocks, Pennsylvania, 15136.

11:39:53 8 **Q** Okay. And how long have you been a resident of the
11:39:55 9 state of Pennsylvania?

11:39:56 10 **A** 40 years.

11:39:58 11 **Q** 40 years. Okay.

11:39:59 12 Do you live there by yourself?

11:40:03 13 **A** No. I live along with my husband, my son, and two of
11:40:09 14 my three daughters.

11:40:10 15 **Q** Three daughters.

11:40:11 16 Okay. What are their ages?

11:40:14 17 **A** 21, 19, 14.

11:40:19 18 **Q** Okay.

11:40:19 19 **A** And my son is 13.

11:40:21 20 **Q** Okay. I'm imagining you're like me and probably a lot
11:40:24 21 of us that those kids are a handful having that many kids
11:40:29 22 around the house?

11:40:30 23 **A** Yes.

11:40:30 24 **Q** Okay. Any special challenges with your children?

11:40:34 25 **A** My 21-year-old child is autistic and also disabled.

Vennel (Direct)

11:40:41 1 **Q** So in addition to taking care of your children there
11:40:43 2 at home, and I understand we'll talk about this later, but
11:40:48 3 also doing the cooking, do you work outside of the home?

11:40:51 4 **A** I do, full time.

11:40:55 5 **Q** Okay. Tell the Court and jury what you do for a
11:40:58 6 living.

11:40:58 7 **A** I am an account clerk for the Allegheny County Health
11:41:03 8 Department.

11:41:03 9 **Q** And what does that involve, Ms. Vennel?

11:41:05 10 **A** That involves budgets, projections, daily revenue
11:41:11 11 reports, reporting to the controller's office along with the
11:41:14 12 budget office.

11:41:14 13 **Q** Okay. So you're not a professional chef. We want to
11:41:18 14 be clear about that.

11:41:19 15 **A** No, I am not.

11:41:24 16 **Q** Explain how you first became aware of the Power
11:41:28 17 Pressure Cooker XL sold by Tristar.

11:41:31 18 **A** Numerous infomercials on different cable channels.

11:41:34 19 **Q** Okay. That's how you first actually became of the
11:41:38 20 unit is TV infomercials?

11:41:42 21 **A** Yes.

11:41:42 22 **Q** Those are kind of like the as-seen-on-TV commercials
11:41:48 23 that we've all seen?

11:41:50 24 **A** Yes.

11:41:50 25 **Q** Was it those TV ads that ultimately led to your

Vennel (Direct)

11:41:54 1 decision to go out and make this purchase of the Tristar
11:42:00 2 Power Pressure Cooker?

11:42:00 3 **A** Yes, they were.

11:42:01 4 **Q** Okay. And I'm not asking you to recount specific
11:42:06 5 details of these infomercials because it's been some time, I
11:42:10 6 understand, but what factors stood out to you in those TV
11:42:16 7 infomercials that ultimately led to your decision to go make
11:42:19 8 the purchase of this particular Power Pressure Cooker XL
11:42:23 9 unit?

11:42:24 10 **A** That I could safely and quickly cook meals for my
11:42:29 11 family.

11:42:29 12 **Q** Okay. Did you understand that, I guess at some point,
11:42:34 13 that this power pressure cooker could be used for things
11:42:38 14 like as a slow cooker?

11:42:40 15 **A** Yes, I did.

11:42:41 16 **Q** Okay. Did you buy it to use it as a slow cooker,
11:42:45 17 though?

11:42:46 18 **A** No. I actually bought the unit to replace my previous
11:42:51 19 pressure cooker.

11:42:52 20 **Q** Okay. Let me ask you about that.

11:42:58 21 So you did have experience using a pressure cooker
11:43:02 22 before you bought the Tristar Power Pressure Cooker XL?

11:43:06 23 **A** Yes, I did.

11:43:07 24 **Q** Okay. How long had you used your old pressure cooker
11:43:13 25 before you bought the Tristar pressure cooker?

Vennel (Direct)

11:43:17 1 **A** Well over ten years.

11:43:19 2 **Q** Ten years.

11:43:21 3 Okay. Was this one of the newer pressure cooker
11:43:28 4 models like the Tristar brand that you plug in or is this
11:43:32 5 one of the old stovetop pressure cookers?

11:43:35 6 **A** The old stovetop.

11:43:36 7 **Q** Okay. Was Tristar -- was this one of the made in
11:43:40 8 China Tristar pressure cookers that you had before?

11:43:44 9 **A** No, not at all.

11:43:46 10 **Q** Okay. Well, let me ask you this: Did the old
11:43:52 11 pressure cooker that you used for ten years prior to the
11:43:54 12 Tristar product ever explode?

11:43:56 13 **A** No, it did not.

11:43:58 14 **Q** Were you ever injured in any way through 10 years of
11:44:01 15 using your old pressure cooker, not manufactured by Tristar?

11:44:06 16 **A** Not once.

11:44:08 17 **Q** Okay. Do you recall what you paid for your Tristar
11:44:22 18 power cooker?

11:44:22 19 **A** \$99.

11:44:24 20 **Q** And where did you make the purchase, if you recall?

11:44:27 21 **A** In Target in Pittsburgh, Pennsylvania.

11:44:32 22 **Q** When you went out and you bought the Power Pressure
11:44:34 23 Cooker XL from Target in Pennsylvania, tell me what you did
11:44:38 24 when you got the unit home for the first time.

11:44:41 25 **A** We unpacked -- my husband and I unpacked the pressure

Vennel (Direct)

11:44:46 1 cooker, and I read the manual.

11:44:49 2 Q Okay. Did you read the entire instruction manual
11:44:53 3 before you used it?

11:44:55 4 A Yes, I did.

11:44:56 5 Q Okay. Do you remember seeing something about safety
11:45:03 6 features when you read the manual involving the lid?

11:45:07 7 A Yes, I did.

11:45:08 8 Q Okay. And what do you remember seeing in the manual
11:45:11 9 about the safety features and the lid specifically?

11:45:15 10 A That the lid would not -- could not be removed if
11:45:20 11 there was any pressure in the unit.

11:45:21 12 Q Okay. So when you -- after you read that and you
11:45:25 13 started cooking with your pressure cooker, were you taking
11:45:28 14 care to pay special attention when removing the lid, or was
11:45:33 15 this something you thought, wow, I don't need to worry about
11:45:40 16 it?

11:45:40 17 A I thought that I didn't need to worry about it.

11:45:43 18 Q And was that because of the representations made in
11:45:46 19 the manual which indicated that the lid can't be removed
11:45:49 20 while the contents are under pressure?

11:45:51 21 A Yes.

11:45:52 22 Q Okay. And did those statements, those representations
11:45:56 23 made by Tristar about the safety and the inability to remove
11:46:00 24 the lid under pressure, did that lead to your decision to
11:46:03 25 keep the cooker and to go ahead and start using it in your

Vennel (Direct)

11:46:07 1 home and to cook for your family?

11:46:10 2 **A** Yes.

11:46:12 3 **Q** Did you ever use the Power Pressure Cooker XL for any
11:46:18 4 of these other reasons, like a slow cooker or anything else,
11:46:22 5 other than to quickly and safely cook food under pressure?

11:46:27 6 **A** No, just as a pressure cooker.

11:46:28 7 **Q** Okay. Have you got a Crock-Pot at home and other
11:46:32 8 things which would allow -- I'm assuming a saute pan that
11:46:36 9 you can do these other things?

11:46:38 10 **A** I do. I have something for everything that this unit
11:46:42 11 could do.

11:46:42 12 **Q** Okay. So the intended use for you was just as a
11:46:45 13 pressure cooker, that's it?

11:46:46 14 **A** Yes.

11:46:46 15 **Q** Okay. How many times did you use this Power Pressure
11:46:55 16 Cooker XL before the explosion that we're here about today?

11:46:58 17 **A** Twice.

11:46:59 18 **Q** Okay. Let's talk about, correct me if I'm wrong, I
11:47:11 19 believe the date of the explosion was February 25th, 2016.
11:47:16 20 Is that correct?

11:47:17 21 **A** Yes.

11:47:17 22 **Q** Explain to the Court and jury how you intended to use
11:47:21 23 your cooker.

11:47:24 24 **A** I intended to prepare homemade chicken soup for my
11:47:29 25 family that evening. I had gone through all the steps to

Vennel (Direct)

11:47:34 1 prepare the chicken, the vegetables, along with filling the
11:47:38 2 pot with the water in preparation to make the soup.

11:47:44 3 **Q** Okay. Did you do anything out of the ordinary,
11:47:48 4 anything that you would consider abnormal as a person
11:47:52 5 experienced for over ten years in using a pressure cooker on
11:47:55 6 February 25th, 2016?

11:47:57 7 **A** No.

11:47:57 8 **Q** Okay. So what did you do after you got the
11:48:03 9 contents of the recipe you were going to make into the
11:48:06 10 pressure cooker?

11:48:06 11 **A** I put the lid on and locked it into place.

11:48:11 12 **Q** Okay.

11:48:12 13 **A** Then I proceeded to push the soup/stew button, set it
11:48:16 14 for 20 minutes, and hit -- hit "start."

11:48:21 15 **Q** Okay. All right. So did you stay staring at the
11:48:26 16 pressure cooker the entire time while it cooked or did you
11:48:29 17 go do something else?

11:48:31 18 **A** No, I went to sit in my dining room.

11:48:35 19 **Q** Is it close and connected there to your kitchen area?

11:48:39 20 **A** Yes. There's absolutely no wall between my kitchen
11:48:41 21 and my dining room.

11:48:43 22 **Q** So you told us about 20 minutes passed.

11:48:46 23 Tell us what happened next.

11:48:47 24 **A** After 20 minutes, I went into the kitchen to check to
11:48:51 25 see if the pressure cooker was finished cooking. The front

Vennel (Direct)

11:48:57 1 display flashed stating that the cooking process was
11:49:00 2 finished.

11:49:01 3 I then reached the steam valve, turned it to the open
11:49:07 4 position, and allowed the steam to escape.

11:49:10 5 Q When you say steam valve, are you talking about the
11:49:14 6 black valve that rotates to an open and closed position on
11:49:18 7 top of the lid of the pressure cooker?

11:49:20 8 A Yes.

11:49:25 9 Q Okay. So you actually opened it from the closed
11:49:27 10 position to the open position.

11:49:28 11 You're sure about that?

11:49:30 12 A Yes, positive.

11:49:31 13 Q Did you actually see steam start to come out of the
11:49:35 14 unit?

11:49:35 15 A Yes, I did.

11:49:36 16 Q Okay. So what did you do next after you started
11:49:39 17 seeing steam come out of the unit?

11:49:41 18 A I allowed the unit to expel the steam for 10 to 15
11:49:48 19 minutes.

11:49:49 20 Q Okay. Did you actually stay and watch it shoot all
11:49:53 21 the steam out or, again, did you leave the room?

11:49:55 22 A I left the room.

11:49:56 23 Q Okay. So you leave the room and then you come back to
11:49:59 24 check on the unit.

11:50:00 25 When you got back, was it still in the open position

Vennel (Direct)

11:50:03 1 or had somebody come along and tampered with it?

11:50:07 2 **A** No, it was still in the open position.

11:50:09 3 **Q** Okay. And while it was in the open position, did you
11:50:13 4 observe whether any steam was coming out of the unit at that
11:50:17 5 time?

11:50:17 6 **A** No. There was no steam expelled.

11:50:21 7 **Q** Okay. So the pressure cooker is in the open position
11:50:24 8 but no more steam was coming out. Did this give you the
11:50:28 9 green light that it was okay to go ahead and open the unit?

11:50:33 10 **A** Yes.

11:50:33 11 **Q** Tell us how you positioned your hands on the unit to
11:50:36 12 open it.

11:50:37 13 **A** My one hand was on the handle on the base of the unit,
11:50:43 14 and my other hand was on the handle, the bottom part of the
11:50:49 15 handle, on the lid.

11:50:50 16 **Q** Okay. Now, do you consider yourself an individual
11:50:54 17 who's got particularly strong hands, Ms. Vennel?

11:50:58 18 **A** Absolutely not. In 2015, I had a carpal tunnel
11:51:05 19 surgery that left my hands with rather a noted weakness.

11:51:08 20 **Q** Okay. Is that surgery on your right hand or your left
11:51:12 21 hand?

11:51:12 22 **A** It was actually on both.

11:51:13 23 **Q** You had carpal tunnel surgery on both hands in 2015?

11:51:18 24 **A** Yes, I did.

11:51:19 25 **Q** Okay. Did you have to get help from husband or kids

Vennel (Direct)

11:51:22 1 around the house to open ordinary household things like
11:51:26 2 jars?

11:51:27 3 **A** Oh, yes.

11:51:29 4 **Q** Okay.

11:51:29 5 **A** Always.

11:51:30 6 **Q** Okay. So since 2015, just so I understand, you've
11:51:38 7 been left with permanent weakness in the strength of your
11:51:42 8 hands due to your carpal tunnels?

11:51:45 9 **A** Yes.

11:51:45 10 **Q** Okay. Is that why you used the palm of your hand to
11:51:48 11 open the pressure cooker?

11:51:49 12 **A** Yes.

11:51:53 13 **Q** Is that how you've done it in all the times before
11:51:57 14 that you'd used the pressure cooker? And I'm talking about
11:52:00 15 your old pressure cooker.

11:52:01 16 **A** Yes, that was the same way.

11:52:03 17 **Q** Okay. You told me that you'd used this Tristar
11:52:06 18 pressure cooker two times before you got hurt, correct?

11:52:09 19 **A** Yes.

11:52:10 20 **Q** When you opened your pressure cooker on February 25th,
11:52:15 21 2016, did you open it any differently than you did the two
11:52:18 22 times prior?

11:52:19 23 **A** No. There wasn't a difference.

11:52:21 24 **Q** Okay. Did you feel any difference in terms of the
11:52:25 25 difficulty in getting the lid to rotate versus the two times

Vennel (Direct)

11:52:30 1 prior?

11:52:30 2 **A** No, there wasn't a difference.

11:52:31 3 **Q** Do you feel like you misused the product on

11:52:35 4 February 25th, 2016, as you opened the lid and the contents

11:52:40 5 erupted?

11:52:41 6 **A** No, not at all.

11:52:43 7 **Q** Did you force the lid open in contravention of the

11:52:49 8 owner's manual on February 25th, 2016?

11:52:53 9 **A** No, I did not.

11:52:54 10 **Q** Okay. Tell the Court and jury what happened when you

11:53:06 11 were able to rotate the lid on a pressurized Tristar Power

11:53:13 12 Pressure Cooker on February 25th, 2016.

11:53:16 13 **A** Well, when I went to turn the lid to open it, the

11:53:22 14 pressure from within had forced the lid up and the contents,

11:53:27 15 scalding all myself, my countertops, all over my cabinets,

11:53:35 16 my dishes, as well as it showered down over everything and

11:53:44 17 splattered the ceiling.

11:53:46 18 **Q** Well, I mean, is there any chance that you simply

11:53:49 19 spilled the contents on yourself?

11:53:51 20 **A** Absolutely not.

11:53:52 21 **Q** Okay.

11:53:53 22 **A** There was no way for me to spill it as every ounce

11:53:58 23 that was inside the pressure cooker was expelled.

11:54:02 24 **Q** Did you actually damage your cabinets when this

11:54:06 25 happened?

Vennel (Direct)

11:54:06 1 **A** Yes. The cabinets -- or some of the cabinets are
11:54:10 2 warped where the scalding hot liquid hit.

11:54:16 3 **Q** Okay. And were you also severely burned as a result
11:54:21 4 of this exploding pressure cooker?

11:54:24 5 **A** I was.

11:54:25 6 **Q** All right. And I'm not going to ask you any details
11:54:28 7 about those injuries because that's not what we're here
11:54:31 8 about today. But is it fair to say that those burns have
11:54:34 9 caused you a lot of issues that you're still dealing with?

11:54:38 10 **A** Yes.

11:54:38 11 **Q** Okay. Miss Vennel, when Tristar represented to you
11:54:58 12 through infomercials and through at least two places in the
11:55:02 13 owner's manual that the lid of this product cannot be
11:55:05 14 removed while the contents are under pressure, in your
11:55:08 15 experience, were those true statements?

11:55:10 16 **A** No, they were not.

11:55:14 17 **Q** And how do you know that?

11:55:15 18 **A** Because on February 25th, it exploded all over without
11:55:21 19 any force being put on the lid. The lid opened easily.

11:55:27 20 **Q** Okay. Would you have paid anything for this product
11:55:34 21 if you had known about this safety defect?

11:55:36 22 **A** Absolutely not. I wouldn't have paid a penny.

11:55:39 23 **Q** Will you ever plug this unit in in your home around
11:55:43 24 your family for any of the purposes that Tristar may tout,
11:55:47 25 other than pressure cooking?

Vennel (Direct)

11:55:50 1 **A** Absolutely not. It's a dangerous product.

11:55:57 2 **Q** Okay. Will you ever use the Power Pressure Cooker XL
11:56:01 3 for any reason ever again?

11:56:02 4 **A** No, I will not.

11:56:03 5 **Q** Knowing what you know now about this defect, did the
11:56:07 6 Power Pressure Cooker XL have any value on the date you
11:56:11 7 purchased it?

11:56:12 8 **A** No. It was worthless.

11:56:18 9 **Q** Miss Vennel, the last question I have for you is, why
11:56:22 10 have you agreed to serve as a class representative in this
11:56:26 11 litigation?

11:56:27 12 **A** Basically, I don't want this to happen to any other
11:56:31 13 person. This was a horrendous thing that occurred, and I
11:56:36 14 want people to be protected and owners of this pressure
11:56:39 15 cooker to know that this can happen. And if they would like
11:56:42 16 to get a refund, that it is an option for them.

11:56:47 17 MR. EDWARDS: Okay. Miss Vennel, thank you
11:56:49 18 very much for your time. I know you've been through a lot
11:56:53 19 with the recent surgery, and I appreciate you visiting with
11:56:56 20 us today. Okay?

11:56:57 21 THE WITNESS: Thank you.

11:56:58 22 THE COURT: Cross-examination.

11:57:01 23 MR. LEWIS: Am I allowed to use documents
11:57:03 24 through this system or is that not permissible?

11:57:08 25 THE COURT: I don't know. Has she received

Vennel (Cross)

11:57:13 1 the documents?

11:57:14 2 MR. LEWIS: I didn't send them to her because
11:57:17 3 they just filed a motion.

11:57:20 4 THE COURT: I don't know if there's some way
11:57:21 5 to -- I don't know how you --

11:57:22 6 DEPUTY CLERK: Yeah, how we'd show it to her.

11:57:25 7 MR. LEWIS: I'll work with it.

11:57:25 8 THE COURT: Okay.

11:57:28 9 - - - - -

11:57:28 10 CROSS-EXAMINATION

11:57:28 11 BY MR. LEWIS:

11:57:40 12 **Q** Good morning Miss -- is it Vennel? Did I pronounce
11:57:44 13 that correctly?

11:57:45 14 **A** Yes.

11:57:45 15 **Q** Yes, thanks --

11:57:46 16 **A** Yes.

11:57:46 17 **Q** -- for joining us. This is me standing at the podium
11:57:51 18 here. And it's nice that our court can accommodate this.
11:57:55 19 Sorry about the awkwardness of you looking at my back while
11:58:00 20 I get to look at you testify.

11:58:04 21 But my name is John Lewis, and I represent Tristar.

11:58:07 22 And I just have a few questions for you today about some of
11:58:10 23 the testimony that you gave. Okay, ma'am?

11:58:12 24 **A** Okay.

11:58:13 25 **Q** All right. The first topic is related to TV ads.

Vennel (Cross)

11:58:19 1 Did you see TV ads prior to purchasing the Power
11:58:26 2 Pressure Cooker XL?

11:58:26 3 **A** Yes, I did.

11:58:27 4 **Q** Okay. And was it those TV ads that caused you or the
11:58:32 5 information in those TV ads that caused you to make the
11:58:37 6 purchase of the Power Pressure Cooker XL?

11:58:41 7 **A** Yes.

11:58:42 8 **Q** Do you have specific recollection of what TV ads you
11:58:47 9 did see or just a general recollection of that?

11:58:52 10 **A** A general recollection.

11:58:54 11 **Q** Okay. Next topic.

11:59:07 12 You get home, and I just want to make sure, you read a
11:59:16 13 small square instruction manual that came with the cooker;
11:59:22 14 is that right?

11:59:22 15 **A** Yes.

11:59:23 16 **Q** Okay. And you have a recollection that you read that
11:59:26 17 from cover to cover, right?

11:59:29 18 **A** Yes. Yes, I did.

11:59:31 19 **Q** And do you recall that there was warranty information
11:59:36 20 in that particular instruction manual?

11:59:40 21 **A** Yes.

11:59:41 22 **Q** And you understood that the warranty said that if
11:59:47 23 there was misuse or modification of the device, it would
11:59:50 24 void the warranty.

11:59:51 25 Do you remember that part?

Vennel (Cross)

11:59:53 1 **A** Yes.

11:59:53 2 **Q** Okay. And then there were also other instructions
11:59:57 3 within that manual, correct?

11:59:59 4 **A** Yes.

11:59:59 5 **Q** One of the instructions, do you recall, said that you
12:00:04 6 should always check the pressure release valve for clogs
12:00:08 7 before you use it.

12:00:10 8 Do you recall that?

12:00:11 9 **A** Yes.

12:00:11 10 **Q** Okay. And you did that, right? You -- before cooking
12:00:18 11 on the incident that you described, you checked to make sure
12:00:22 12 the pressure release valve was free of any clogs, correct?

12:00:26 13 **A** Yes.

12:00:28 14 **Q** Okay. And then you cooked a meal that took about 20
12:00:33 15 minutes; is that right?

12:00:35 16 **A** Yes.

12:00:36 17 **Q** And during that 20 minutes you left the room, but you
12:00:40 18 came back at the end of the cook cycle; is that correct?

12:00:45 19 **A** That's correct.

12:00:46 20 **Q** Okay. And when you came back at the end of the cook
12:00:50 21 cycle, are you sure that you turned the pressure release
12:00:55 22 valve to open? Are you sure about that?

12:00:58 23 **A** Absolutely.

12:00:58 24 **Q** Okay. And you -- did you hear whistling, or you
12:01:07 25 definitely saw steam come out; is that right?

Vennel (Cross)

12:01:10 1 **A** Yes.

12:01:10 2 **Q** And it came out for -- I mean, you witnessed it,
12:01:13 3 right?

12:01:14 4 **A** Yes, for a few -- for a few seconds, and then I went
12:01:17 5 to set in the dining room where I could see it from sitting.

12:01:21 6 **Q** And was it whistling too, kind of like -- you know how
12:01:27 7 like steam on a -- if you make a pot of tea or something,
12:01:33 8 you hear that whistle sound when it's ready? Did you hear a
12:01:37 9 whistling here as well?

12:01:37 10 **A** Yes.

12:01:37 11 **Q** And then you left the room, right, for about 10 or 15
12:01:41 12 minutes?

12:01:42 13 **A** Yes.

12:01:42 14 **Q** Okay. And are you pretty sure that was about the
12:01:45 15 estimated time? It wasn't like 1 or 2 minutes? It was --
12:01:47 16 you're pretty sure it was 10 or 15 minutes?

12:01:50 17 **A** Yes, 10, 15 minutes.

12:01:52 18 **Q** And did at some point in time the whistling and the
12:01:59 19 steam just kind of stop?

12:02:00 20 **A** When I returned back into the kitchen, it had all
12:02:04 21 stopped.

12:02:04 22 **Q** It had all stopped.

12:02:06 23 But were you sure that the pressure release valve was
12:02:10 24 still open at that time?

12:02:13 25 **A** Yes, it was still open.

Vennel (Cross)

12:02:11 1 Q Nobody had bumped it?

12:02:14 2 A No.

12:02:14 3 Q Still completely open?

12:02:15 4 A Yes.

12:02:16 5 Q So it was absolutely still open 10, 15 minutes later

12:02:19 6 when you walked back into the kitchen, correct?

12:02:22 7 A Correct.

12:02:22 8 Q Okay. And then when you opened the lid, it opened

12:02:29 9 easily, correct?

12:02:32 10 A It did.

12:02:33 11 Q I mean, although you used two hands, you -- it pretty

12:02:38 12 much just easily turned and opened up; is that right?

12:02:44 13 A Yes, that's correct.

12:02:46 14 Q Okay. You didn't force it?

12:02:49 15 A No, I did not.

12:02:50 16 Q Okay. Was anybody else around when this occurred?

12:02:56 17 A My 21-year-old daughter was sitting in the dining room

12:03:00 18 with me, and my other children were upstairs.

12:03:13 19 Q Okay. So did your daughter witness the incident?

12:03:15 20 A I believe so.

12:03:19 21 MR. LEWIS: Pass the witness, Your Honor.

12:03:21 22 THE COURT: Do you have any redirect?

12:03:25 23 MR. EDWARDS: No more questions, Your Honor.

12:03:27 24 THE COURT: Okay. Thank you, ma'am.

12:03:29 25 THE WITNESS: Thank you.

Chapman (Direct)

12:03:30 1 THE COURT: Thank you.

12:03:30 2 And would plaintiff call your next witness?

12:03:35 3 MR. EDWARDS: I called Kenneth Chapman.

12:03:45 4 THE COURT: Would you raise your right hand.

12:03:53 5 (Witness sworn.)

12:03:53 6 THE COURT: If you'll take a seat. And get
12:04:03 7 close to the microphone, then tell us your name and how you
12:04:06 8 spell your last name.

12:04:08 9 THE WITNESS: My is Kenneth Chapman,
12:04:13 10 C-H-A-P-M-A-N.

12:04:13 11 KENNETH CHAPMAN

12:04:13 12 - - - - -

12:04:16 13 DIRECT EXAMINATION

12:04:16 14 BY MR. WALLACE:

12:04:16 15 **Q** Mr. Chapman, hello.

12:04:18 16 **A** Hi.

12:04:18 17 **Q** Go ahead, you just gave the jury an introduction and
12:04:18 18 told them what your name is. Go ahead and tell the jury
12:04:23 19 where you live.

12:04:23 20 **A** I live on Hathaway Drive in Brunswick, Ohio.

12:04:27 21 **Q** Brunswick, Ohio?

12:04:28 22 **A** Brunswick, Ohio.

12:04:29 23 **Q** Okay. That's Big Ten -- I'm an SCC guy. That's a Big
12:04:34 24 Ten country, right?

12:04:36 25 Okay. How long have you been an Ohio guy?

Chapman (Direct)

12:04:38 1 **A** My whole life, 55 years.

12:04:40 2 **Q** Okay. And who do you live there with at your home in
12:04:45 3 Brunswick?

12:04:46 4 **A** My wife, Pamela, and my daughter, Gracie.

12:04:50 5 **Q** All right. And what do you do for a living,
12:04:54 6 Mr. Chapman?

12:04:55 7 **A** I'm in fasteners. I run a national bolt make and
12:05:03 8 header.

12:05:03 9 **Q** Okay. Are you an engineer?

12:05:05 10 **A** No, no engineer.

12:05:06 11 **Q** Okay. So what does a guy that makes headers do? What
12:05:10 12 do you --

12:05:11 13 **A** Bolts. Any kind of fasteners, any, you know, screws,
12:05:15 14 bolts.

12:05:15 15 **Q** All right. You're in a suit today and I appreciate
12:05:18 16 that. But you consider yourself kind of a blue-collar guy?

12:05:23 17 **A** Yeah.

12:05:23 18 **Q** Okay. All right. Explain to the Court and jury, if
12:05:26 19 you would, how you first became aware of the Power Pressure
12:05:33 20 Cooker XL.

12:05:33 21 **A** On TV, on the infomercials. I seen a couple of
12:05:39 22 different infomercials on the pressure cooker.

12:05:41 23 **Q** Okay. And was it those TV ads that led to your
12:05:45 24 decision to buy the power pressure cooker?

12:05:50 25 **A** Yes.

Chapman (Direct)

12:05:50 1 Q Okay. Did you have to do some coaxing of your wife to
12:05:56 2 make that happen?

12:05:57 3 A Yeah. My wife really didn't want a pressure cooker.

12:06:00 4 Q Was she afraid of them?

12:06:01 5 A Yes.

12:06:02 6 Q Okay. Did you point out to your wife that these
12:06:07 7 pressure cookers, based on the ads, were supposed to be the
12:06:09 8 safe ones?

12:06:10 9 A Absolutely, yes. They say you couldn't open it under
12:06:13 10 pressure.

12:06:14 11 Q Okay. All right. And so you talked her into it for
12:06:17 12 those reasons, right?

12:06:19 13 A Yes.

12:06:19 14 Q Is she the cook in the family or are you the cook?

12:06:23 15 A Yes, she is.

12:06:24 16 Q Okay. In fact, did she do all the cooking with this
12:06:27 17 Tristar Power Pressure Cooker?

12:06:29 18 A Yes, she did.

12:06:30 19 Q And when did you guys actually make the purchase, if
12:06:34 20 you remember? I know it's been a while.

12:06:35 21 A I believe sometime in early 2016.

12:06:38 22 Q Okay. When you got the power pressure cooker home for
12:06:47 23 the first time, did you and your wife go through it, go
12:06:50 24 through what was in the box?

12:06:51 25 A Yes.

Chapman (Direct)

12:06:52 1 Q Did you guys read the entire instruction manual?

12:06:57 2 A Everything up to the recipes.

12:06:58 3 Q Okay. Did you actually read them or did she read them
12:07:02 4 to you?

12:07:02 5 A She read them to me. We went over them together.

12:07:06 6 Q Okay. And you bailed when it got to the recipe part?

12:07:10 7 A Yeah.

12:07:14 8 Q Do you remember hearing something about the safety
12:07:17 9 features involving the lid in the manual? And, if so, tell
12:07:21 10 us what you remember.

12:07:21 11 A Well, the chef that was on the infomercial says they
12:07:27 12 were safe. You couldn't open them, you know, under any
12:07:31 13 pressure.

12:07:31 14 Q Okay.

12:07:33 15 A Then you get the manual, the manual said the same
12:07:36 16 thing, you know?

12:07:37 17 Q Okay. All right. And was it those representations
12:07:40 18 both before you made the purchase and after that led to your
12:07:43 19 decision to go ahead and try this thing out, take it out of
12:07:46 20 the box, use it in your home?

12:07:48 21 A Yeah, yeah.

12:07:59 22 Q Okay. You said your wife had used it a few times
12:08:02 23 before this incident where it exploded on you, correct?

12:08:04 24 A Right.

12:08:05 25 Q Okay. Do you remember anything that she had made with

Chapman (Direct)

12:08:07 1 it?

12:08:08 2 **A** Well, there was one thing, chicken wings.

12:08:12 3 **Q** Okay. How did the -- did she cook them from frozen
12:08:15 4 like they do in the infomercial?

12:08:15 5 **A** From frozen like they show on the infomercial. And
12:08:19 6 they were just gummy. They were terrible.

12:08:23 7 **Q** You weren't a fan of the chicken wings?

12:08:26 8 **A** No, we didn't like the chicken wings.

12:08:29 9 **Q** All right. Before I get to the actual St. Patrick's
12:08:37 10 Day 2016, I know you didn't use this cooker for really
12:08:41 11 anything, but did your wife intend to use this pressure
12:08:44 12 cooker for anything other than cooking foods under pressure?

12:08:49 13 **A** No, that was it, just to cook food under pressure.

12:08:52 14 **Q** Okay. All right. Go back to St. Patrick's Day,
12:09:00 15 March 17th, 2016. And I'm not going to ask you about the
12:09:04 16 preparation of the meal because Pam did all that, your wife.
12:09:09 17 Right?

12:09:09 18 **A** Right.

12:09:09 19 **Q** Well, what was Pam preparing on St. Patty's day 2016,
12:09:16 20 if you recall?

12:09:16 21 **A** Corned beef.

12:09:18 22 **Q** Traditional corned beef?

12:09:22 23 **A** Traditional corned beef, St. Patrick's Day.

12:09:22 24 **Q** Okay. And so at some point did you get beckoned to
12:09:28 25 come and open the pressure cooker?

Chapman (Direct)

12:09:30 1 **A** Well, yeah, she said supper was ready. I get out
12:09:33 2 there and supper's not ready, and she's doing something over
12:09:38 3 here. And I asked her about the pressure cooker, and she
12:09:40 4 said it's ready to go. And I even asked her, are you sure
12:09:43 5 the steam is out? And she said yes. And she went over
12:09:47 6 there and she physically showed me where it was open,
12:09:50 7 closed, opened it again. All right.

12:09:51 8 She turned around to get the bowl to put the corned
12:09:55 9 beef in. I turned that lid and it popped. It come out
12:10:00 10 right at me, face, all the way down. And I mean, it was
12:10:04 11 nothing to turn.

12:10:06 12 **Q** All right. Let me ask you about -- let me ask you
12:10:10 13 about that.

12:10:12 14 If I understood your testimony correctly, did your
12:10:15 15 wife actually physically demonstrate to you turning the
12:10:19 16 pressure cooker back and forth from the open to the closed
12:10:23 17 position just to make double sure --

12:10:25 18 **A** Yes, she did.

12:10:27 19 **Q** -- that no more steam was coming out?

12:10:29 20 **A** Yes, she did.

12:10:30 21 **Q** And you're sure about that?

12:10:31 22 **A** I'm sure.

12:10:32 23 **Q** Okay. All right. So at that point, did you have any
12:10:34 24 reason to think that it was unsafe to go ahead and open the
12:10:37 25 lid?

Chapman (Direct)

12:10:38 1 **A** Not at all.

12:10:39 2 **Q** Okay. Did you get out a crowbar or a broom handle or
12:10:47 3 anything like that to open the lid?

12:10:49 4 **A** No. No.

12:10:49 5 **Q** You just used your two hands, right?

12:10:52 6 **A** Yes.

12:10:52 7 **Q** Okay. And other than, I guess, playing with it in the
12:10:55 8 box when you first got it, you never opened the lid before,
12:10:59 9 right?

12:10:59 10 **A** No.

12:10:59 11 **Q** Okay. So do you believe you came up and forced this
12:11:07 12 lid open? Is that how you got it open?

12:11:09 13 **A** Absolutely not.

12:11:09 14 **Q** Okay. Do you feel like you tried to open it just like
12:11:13 15 any other reasonable person might if they were just opening
12:11:15 16 a pressure cooker?

12:11:16 17 **A** Yeah, that's what I did. I mean . . .

12:11:18 18 **Q** Okay. And tell us in detail exactly what happened
12:11:22 19 when you rotated the lid of that pressure cooker without a
12:11:26 20 stop key device on it.

12:11:28 21 **A** Well, everything that was in that pot, it seemed like
12:11:31 22 just about everything come out at me. Ceiling, floor. I
12:11:36 23 knocked my wife over going back so far.

12:11:40 24 I turned around to make sure she was all right, and
12:11:43 25 she said, you got to get to the shower. Your nose is

Chapman (Direct)

12:11:47 1 already blistering, you're peeling. So I went into the
12:11:51 2 shower and stayed there for like 45 minutes. Telling her,
12:11:56 3 you got to keep checking on me. I think I might -- I felt
12:11:59 4 funny. I thought maybe I was going to go into shock or
12:12:02 5 something. But everything turned out -- you know, we just
12:12:04 6 packed it with salve.

12:12:06 7 She works for a doctor, and she called the doctor
12:12:09 8 right away. And he told us what we needed to do, so that's
12:12:14 9 what we did.

12:12:15 10 **Q** All right. Mr. Chapman, when Tristar represented in
12:12:23 11 those infomercials and the manual those provisions that your
12:12:27 12 wife read to you that the Tristar Power Pressure Cooker XL's
12:12:31 13 lid could not be removed unless the contents were under
12:12:34 14 pressure, were those representations true and accurate, in
12:12:38 15 your experience?

12:12:38 16 **A** No, they weren't true. You can pop that thing off at
12:12:46 17 anytime. It's just like a ticking -- just like a bomb.

12:12:51 18 **Q** Okay. Would you have paid anything for this product
12:12:53 19 if you'd known about this safety defect?

12:12:55 20 **A** Absolutely not.

12:13:01 21 **Q** Did it have any value to your family to use as a slow
12:13:05 22 cooker or any other reason?

12:13:07 23 **A** No, that's not what we bought it for.

12:13:10 24 **Q** Okay. You bought a pressure cooker to use it as a
12:13:12 25 pressure cooker, right?

Chapman (Direct)

12:13:13 1 **A** Correct.

12:13:18 2 **Q** Okay. Will you ever plug this pressure cooker in for
12:13:21 3 reason again?

12:13:22 4 **A** No.

12:13:22 5 **Q** Okay. I understand at some point this -- right after
12:13:24 6 this, this pressure cooker made it out to the trash, right?

12:13:28 7 **A** Yeah, this pressure cooker went out to the trash.

12:13:33 8 **Q** Okay. And then you rethought that because it
12:13:36 9 eventually became a claim rep and it's now evidence, right?

12:13:38 10 **A** Right.

12:13:39 11 **Q** And why did you make the decision to serve as a class
12:13:42 12 rep in this case?

12:13:43 13 **A** I don't want it to happen to anybody else.

12:13:45 14 **Q** Okay.

12:13:46 15 **A** It's a dangerous machine.

12:13:50 16 **Q** Okay.

12:13:52 17 MR. EDWARDS: Mr. Chapman, thank you very much
12:13:53 18 for your time today. I appreciate it.

12:13:55 19 THE COURT: Cross-examination.

12:13:55 20 - - - - -

12:13:55 21 CROSS-EXAMINATION

12:13:55 22 BY MR. FECZKO:

12:14:00 23 **Q** Good afternoon, Mr. Chapman. How are you?

12:14:09 24 **A** Good. How are you?

12:14:10 25 **Q** Good.

Chapman (Cross)

12:14:14 1 So it's your testimony that you did not actually read
12:14:16 2 the owner's manual yourself; is that correct?

12:14:18 3 **A** No, I didn't physically. Me and the wife sat there
12:14:21 4 together flipping the pages together. But did I take it and
12:14:24 5 read it by myself? No, I did not.

12:14:26 6 **Q** Since you didn't read it, can you be sure that she
12:14:29 7 read every word of every page to you along the way?

12:14:31 8 **A** Yeah, I'm sure she read every page.

12:14:34 9 **Q** In that case, did she see on page 1 or did she read to
12:14:38 10 you on page 1 of the manual --

12:14:40 11 MR. FECZKO: Jeff, can you pull it up? Go the
12:14:43 12 next page, page 1. Can you call out in the second column,
12:15:03 13 the second bullet point.

12:15:05 14 **Q** Did she read to you where it says: Do not open the
12:15:08 15 Power Pressure Cooker XL until the unit has cooled and all
12:15:10 16 internal pressure has been released?

12:15:12 17 **A** Yes.

12:15:12 18 **Q** You recall her reading that to you?

12:15:14 19 **A** Yes.

12:15:14 20 **Q** Do you recall her reading: If the unit is difficult
12:15:17 21 to open, this indicates that the cooker is still
12:15:20 22 pressurized. Do not force it open?

12:15:22 23 **A** Right, we knew that.

12:15:23 24 **Q** And did you follow those instructions?

12:15:25 25 **A** I did.

Chapman (Cross)

12:15:25 1 **Q** And did your wife follow those instructions when she
12:15:28 2 used it?

12:15:29 3 **A** Yes.

12:15:31 4 MR. FECZKO: Can you pull up the sticker from
12:15:33 5 the lid?

12:15:38 6 **Q** Now, I recognize that your wife did the cooking with
12:15:42 7 this primarily, but did you ever see the sticker on the lid
12:15:44 8 of the unit?

12:15:45 9 **A** Yes.

12:15:45 10 **Q** Do you see in part 2 where it says: After cooking and
12:15:49 11 before opening the lid, turn the pressure valve to the vent
12:15:52 12 position and release steam.

12:15:53 13 And then under number 3: Once the float valve has
12:15:56 14 dropped, the lid may be removed?

12:15:58 15 **A** Mm-hmm.

12:15:58 16 **Q** Did you and your wife follow those instructions when
12:16:01 17 using the machine?

12:16:02 18 **A** I believe she did. I tell you what, to be honest with
12:16:05 19 you, she said it before we -- I said, is the steam out. She
12:16:07 20 said, I let the steam out a long time ago. Because she
12:16:10 21 programmed it to cook while we were at work. So when she
12:16:14 22 got home, she let that steam out. So, I mean, the pot
12:16:18 23 itself wasn't really hot at all.

12:16:20 24 **Q** It wasn't hot, the steam was out?

12:16:24 25 **A** Yes, it wasn't hot, the steam was out.

Chapman (Cross)

12:16:25 1 **Q** When you say the pot wasn't hot, did you touch the
12:16:27 2 sides of the lid?

12:16:28 3 **A** The sides of the lid? I put one hand on the middle of
12:16:34 4 the lid and one on the side of the lid.

12:16:40 5 **Q** So when you opened it, you were like that?

12:16:42 6 **A** No, not like that, no. Both my hands were on the lid.

12:16:46 7 **Q** Like this?

12:16:47 8 **A** But one was in the middle and the other one was where
12:16:51 9 I slipped it, you know, like that. That's --

12:16:53 10 **Q** Like that right there?

12:16:54 11 **A** Yeah. We'll say like that, yeah.

12:17:02 12 **Q** Now, you mentioned some prior occasions that your wife
12:17:06 13 had cooked with the unit, correct?

12:17:07 14 **A** Yes.

12:17:07 15 **Q** You discussed the chicken wings. She also made some
12:17:10 16 lasagne, too; is that right?

12:17:12 17 **A** That's correct.

12:17:12 18 **Q** Did you enjoy the lasagne that your wife made with the
12:17:19 19 unit?

12:17:19 20 THE COURT: You're under oath.

12:17:21 21 **A** It was okay.

12:17:23 22 **Q** Was that a "yes"? Sorry.

12:17:26 23 **A** Yeah.

12:17:27 24 **Q** Do you recall anything else that was cooked with it in
12:17:30 25 addition to the chicken wings or the lasagne?

Chapman (Cross)

12:17:33 1 **A** No, that was about what I can remember. You know, and
12:17:35 2 the corned beef.

12:17:37 3 **Q** And she never had any issues opening the lid, correct?

12:17:40 4 **A** No, I believe she was a very lucky girl.

12:17:44 5 **Q** Are you related to a James Chapman?

12:17:46 6 **A** Not that I know of, no.

12:17:48 7 **Q** Okay. Now, the date of your accident was
12:17:56 8 St. Patrick's Day, correct?

12:17:57 9 **A** Correct.

12:17:58 10 **Q** About what time did your wife call you in and say
12:18:03 11 things are ready to eat?

12:18:04 12 **A** I want to say around 5, 5:00.

12:18:07 13 **Q** Had you taken part in any other St. Patrick's Day
12:18:11 14 festivities that day?

12:18:12 15 **A** No, no.

12:18:12 16 **Q** Now, where were you when your wife called you in?

12:18:15 17 **A** I was in the family room watching the basketball game.

12:18:20 18 **Q** And where is the family room in relation to the
12:18:23 19 kitchen?

12:18:23 20 **A** Backside of the house.

12:18:24 21 **Q** Kind of --

12:18:26 22 **A** The house is sort of like in an L with the addition,
12:18:32 23 so I was on the far end of the L side.

12:18:34 24 **Q** And when you came into the kitchen, where was the unit
12:18:37 25 in the kitchen?

Chapman (Cross)

12:18:38 1 **A** On the countertop.

12:18:39 2 **Q** Okay. Can you describe for me the layout of your
12:18:43 3 kitchen?

12:18:44 4 **A** It's also a straight up refrigerator, sink, and then
12:18:51 5 you got counters on each side. And it was between the
12:18:56 6 refrigerator and the sink.

12:18:58 7 **Q** And you didn't observe anything about the cook cycles
12:19:01 8 or what you did -- what your wife did that morning, correct?

12:19:04 9 **A** No, I don't know how it was programmed, no.

12:19:07 10 **Q** Do you have any idea how much time had passed between
12:19:11 11 when the cook cycle completed that day and when your wife
12:19:15 12 called you?

12:19:16 13 **A** All I know is that she said it cooked earlier in the
12:19:19 14 day and had sat there most of the -- most of the day I take
12:19:24 15 it, you know. I'm not exactly sure how -- you know, she
12:19:31 16 came home from work. She works so close to home, she went
12:19:33 17 home from work and put it together. When I came in the door
12:19:36 18 from work and just got a little relaxed, it was -- she said
12:19:42 19 supper is ready.

12:19:43 20 **Q** Sure. But aside from knowing that the steam was out
12:19:48 21 and it had cooled, do you have any idea how much time had
12:19:51 22 passed between when the cook cycle ended and when your wife
12:19:56 23 called you into the room?

12:19:56 24 **A** I'm sorry, I don't. I don't.

12:20:09 25 **Q** And when you opened the unit, where was your wife in

Chapman (Cross)

12:20:12 1 relation to you?

12:20:12 2 **A** She was right behind me.

12:20:14 3 **Q** Immediately behind you?

12:20:15 4 **A** Yeah, immediately behind me, because when that thing
12:20:19 5 exploded, I fell back and I hit her or I knocked her over.

12:20:25 6 So she was right behind me -- when I cocked that pot open,

12:20:30 7 she was behind me on the other side of the cabinet, on the

12:20:33 8 backside, getting a bowel. She turned around with that

12:20:37 9 bowel and, bam, you know, that thing come out. And I

12:20:42 10 just -- well, we just collided together is what we did.

12:20:45 11 **Q** You were here for Dr. Pratt's testimony, correct?

12:20:48 12 **A** Yes.

12:20:48 13 **Q** When you opened the unit, did you grab it on the sides
12:20:52 14 at all?

12:20:53 15 **A** No, I did not.

12:20:53 16 **Q** And you made sure or your wife made sure that all of
12:21:00 17 the steam was out of the unit?

12:21:01 18 **A** Yes.

12:21:01 19 **Q** And you didn't have to exert any force whatsoever when
12:21:06 20 you opened the lid; is that correct?

12:21:08 21 **A** No force, no. It was very easy.

12:21:12 22 MR. FECZKO: No further questions.

12:21:13 23 THE COURT: Any more redirect?

12:21:16 24 MR. EDWARDS: No, Your Honor. We're done.

12:21:19 25 THE COURT: We're going to take the lunchtime

12:21:21 1 recess. Over that time period, don't talk about the case
12:21:24 2 with anyone, don't form any opinions, don't express any
12:21:26 3 opinions, no private research. All the admonitions and
12:21:33 4 cautions I gave before continue to apply.

12:21:35 5 We'll stand adjourned a little over -- just because of
12:21:38 6 some other responsibilities, we're going to adjourn until
12:21:42 7 about 1:20, okay, so about an hour from now. Okay?

12:21:45 8 So take your pads, put your names on the first page of
12:21:48 9 them. Leave them on your seats, and we'll collect them and
12:21:53 10 then bring them back to you when we reconvene.

12:21:56 11 So we'll stand adjourned until that time.

12:22:02 12 (Luncheon recess taken.)

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12:22:02 1 AFTERNOON SESSION

01:52:38 2 (At side bar.)

01:52:38 3 THE COURT: We'll go back on the record. Let
01:52:43 4 me ask counsel if they might walk up.

01:52:53 5 I just happened to speak with Magistrate Judge
01:52:57 6 Greenberg, and he indicated that the settlement may be in
01:53:02 7 the offing.

01:53:06 8 Is that your understanding as well?

01:53:07 9 Good afternoon.

01:53:11 10 And so, is that true?

01:53:17 11 MR. LANDSKRONER: We are just finishing that
01:53:18 12 up, and I can divert if you want to --

01:53:19 13 THE COURT: Well, the way we typically do it,
01:53:20 14 and I'll do it in this case, if the parties believe they've
01:53:24 15 reached a settlement, I ask the parties to then kind of lay
01:53:27 16 out the terms of the settlement as they understand them.

01:53:30 17 But if you could all stand close to this microphone,
01:53:36 18 and I don't know if the lead counsel wants to take the lead,
01:53:43 19 or whether you want to, John?

01:53:43 20 MR. LEWIS: Mr. Colaizzi is not of counsel --

01:53:43 21 THE REPORTER: I can't hear. I'm sorry.

01:53:43 22 MR. LEWIS: Mr. Colaizzi, who is from Venable,
23 is not counsel of record, but he's been handling the
24 settlement. May he speak to the terms --

25 THE COURT: Sure.

1 MR. LEWIS: -- if there are terms to be
2 spoken?

01:53:44 3 MR. LANDSKRONER: Your Honor, and I've been
01:53:44 4 working with Mr. Colaizzi, along with Judge Greenberg, and
01:54:05 5 so we've been on that tack, and we were going back and forth
01:54:07 6 and I didn't want to miss coming back up to court when we
01:54:07 7 resumed, so --

01:54:10 8 THE COURT: And you're with Venable?

01:54:12 9 MR. COLAIZZI: I'm with a law firm, Venable,
01:54:12 10 yes, Your Honor.

01:54:14 11 THE COURT: But you're representing . . .

01:54:17 12 MR. COLAIZZI: Tristar.

01:54:18 13 THE COURT: Okay. For settlement purposes?

01:54:20 14 MR. COLAIZZI: Yes, sir.

01:54:21 15 THE COURT: Why don't you lay out what you
01:54:23 16 believe the terms of the settlement are?

01:54:26 17 MR. COLAIZZI: Yeah. I have not heard the
01:54:27 18 last back and forth, so I just want to make sure we're on
01:54:27 19 the same page.

01:54:29 20 JUDGE GREENBERG: The only three issues that
01:54:37 21 we were discussing had to --

01:54:37 22 There's no jury. Can you hear me?

01:54:37 23 THE COURT: If you --

01:54:29 24 JUDGE GREENBERG: The only three issues that
01:54:37 25 we were discussing were the coupon credit issue which the

01:54:41 1 parties have agreed to the amount not 72.50, along with a
01:54:45 2 three-minute video.

01:54:47 3 With regard to the reach, there would be a 80-percent
01:54:50 4 reach with a cap fee of 890,000. There will be a range
01:54:55 5 which -- for fees, without objection, submitted to the
01:54:59 6 Court. The Court will not know the range, and the parties
01:55:02 7 will go from there.

01:55:03 8 The parties confidentially can, I guess, for purposes
01:55:06 9 of now, these are the numbers that they agreed on.

01:55:09 10 That's correct?

01:55:11 11 MR. LEWIS: Yes.

01:55:11 12 JUDGE GREENBERG: Counsel?

01:55:12 13 MR. COLAIZZI: Yes, sir.

01:55:14 14 JUDGE GREENBERG: There's also, not something
01:55:16 15 that I negotiated with them, Your Honor, but there's a
01:55:18 16 warranty issue and a plaintiffs' fee issue, which they
01:55:21 17 likewise agree on.

01:55:21 18 Those are the material issues that I was able to have
01:55:25 19 the parties agree to.

01:55:26 20 THE COURT: Mr. Landskroner, does that outline
01:55:29 21 what you believe the parties have agreed upon?

01:55:29 22 MR. LANDSKRONER: It is, Your Honor, with one
01:55:29 23 addition, that there is an additional case --

01:55:29 24 THE REPORTER: I can't hear.

01:55:35 25 MR. LANDSKRONER: There is an additional case

01:55:36 1 that involves a different unit that Mr. Colaizzi has been
01:55:40 2 working on, and that might be transferred into the
01:55:43 3 settlement part of this case, and when --

01:55:45 4 THE COURT: They're on the same terms?

01:55:49 5 MR. COLAIZZI: Yes, Your Honor. There are
01:55:50 6 other terms that we agree on. Judge Greenberg was
01:55:54 7 addressing the terms we were not agreeing on that we now
01:55:57 8 agree on, and so it will be a national class. There will
01:56:02 9 be -- all models of Tristar Products would be taken care of
01:56:05 10 on one class. There's a case in California named Piñon
01:56:10 11 versus Tristar. They would either be transferred here or
01:56:14 12 they'll dismiss without prejudice and plaintiffs here will
01:56:19 13 amend the complaint to bring in that plaintiff and those
01:56:21 14 lawyers. We've already negotiated a fee with those lawyers
01:56:24 15 of \$225,000, and the -- so that will take care of -- cover
01:56:28 16 all the models in that way.

01:56:30 17 THE COURT: Okay. Would it generally be a
01:56:32 18 claims made --

01:56:32 19 MR. COLAIZZI: Yes.

01:56:33 20 MR. LANDSKRONER: It's a national class.

01:56:36 21 THE COURT: Okay. And then with some
01:56:37 22 discussion in terms of compensation, but would there be an
01:56:45 23 accompanying -- a requirement to return the pressure
01:56:47 24 cookers?

01:56:50 25 MR. COLAIZZI: No, Your Honor. They have to

01:56:52 1 watch a safety video in order to receive a benefit. The
01:56:55 2 benefit is a \$72.50 credit to be used towards the purchase
01:57:01 3 of three very popular products, one of which is another
01:57:04 4 pressure cooker, if they want a more advanced one.

01:57:07 5 And they also receive, without doing anything, except
01:57:11 6 watching the video, a one-year warranty on their current
01:57:16 7 pressure cooker. And then the notice that you had mentioned
01:57:21 8 in your order a week ago Sunday about opting out if you have
01:57:28 9 a personal injury claim will be part of that as well.
01:57:31 10 We'll, of course, make a denial and then there won't be
01:57:35 11 anything in the settlement agreement to suggest, expressly
01:57:39 12 or implicitly, that there's a defect.

01:57:43 13 MR. LANDSKRONER: And, Your Honor, there's
01:57:45 14 also an insensitive award that we've agreed to --

01:57:45 15 MR. COLAIZZI: Yes.

01:57:45 16 MR. LANDSKRONER: -- that we would provide the
01:57:48 17 Court for, and then we also have agreed to terms to resolve
01:57:49 18 the personal injury claims outside of that for these three
01:57:51 19 claims.

01:57:53 20 THE COURT: Okay. Is everybody agreed I
01:57:55 21 should retain jurisdiction --

01:57:58 22 MR. LANDSKRONER: Yes.

01:57:59 23 MR. COLAIZZI: Yes.

01:57:59 24 THE COURT: -- enforce the terms?

01:58:02 25 Well, thank you.

01:58:03

1 We'll go off the record.

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3 (Proceedings adjourned at 2:00 p.m.)

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C E R T I F I C A T E

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8 I certify that the foregoing is a correct transcript
9 from the record of proceedings in the above-entitled matter.

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11 /s/ Donnalee Cotone 10th of July, 2017
12 DONNALEE COTONE, RMR, CRR, RSA DATE

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